



HISTORY OF SCOTLAND

HISTORY OF SCOTLAND

HE
B5746h

THE
HISTORY OF SCOTLAND

FROM AGRICOLA'S INVASION TO THE
EXTINCTION OF THE LAST
JACOBITE INSURRECTION

BY

JOHN HILL BURTON, D.C.L.

HISTORIOGRAPHER-ROYAL FOR SCOTLAND

NEW EDITION

IN EIGHT VOLUMES

VOL. II.

WILLIAM BLACKWOOD AND SONS
EDINBURGH AND LONDON



DA
760
B894
1873
V.2

13032

B

CONTENTS OF SECOND VOLUME.

CHAPTER XIV.

NARRATIVE TO THE DEATH OF ALEXANDER II.

PAGE

| | |
|---|------|
| Influence of the Treaty of Falaise as a formal surrender of independence—Formal abandonment of its conditions by Richard of England—Ecclesiastical discussions—Assertion of independence by the Scots Church—Its position towards the king, the Court of Rome, and the Church of England—Dedication of Arbroath Abbey to Thomas à Becket—Death of Malcolm—Succession of Alexander II.—Claims on the northern counties of England—Treaty of Newcastle—Absolute estates given to buy off these claims—General division between England and Scotland completed—Attempt to adjust the exact marches—Contests in the outlying districts—Tragedy of the Bishop of Caithness—Questions of the succession—Vestiges of an arrangement with the Bruce family—Position of this and other Norman houses—Difference of their influence on Lowlanders and Highlanders—The Bysset tragedy arising out of this—Its political consequences—Death of Alexander II., | I-19 |
|---|------|

CHAPTER XV.

NARRATIVE DOWN TO THE DEATH OF THE MAID OF NORWAY.

Alexander III.—His boyhood—Influence of his mother, Mary de Coucy—His inauguration as monarch, and the peculiar ceremonies of the occasion—Great question of the anointing of the Scots kings—Its connection with the claims of England and of the Court of Rome—Fulfilment of Treaty of Newcastle—Marriage of the young king with an English princess—The question of homage—The rule in Scotland during the minority—Factions of the collaterals looking forward to the succession—Comyns and Durwards—Interference by the English king—The islands, and their connection with Norway—Haco's invasion—The battle of Largs—Its influence—Increase of territorial power—Taxation of the Church—Bagimond's Roll—Ecclesiastical councils—An ecclesiastical code—Tamperings with the records of homage—Hopeful future of the country—Disasters—Death of the king's daughter, the Queen of Norway—Death of his son—His own death—Death of the heiress, the Maid of Norway, 20-49

CHAPTER XVI.

PROGRESS OF THE NATION TO THE WAR OF INDEPENDENCE.

Topography—Boundaries of the country—The provinces—Capital towns—Minor territorial divisions—Sheriffs—Thanes—Maarmors—Progress of feudalism—Older laws found in operation when feudalism began—The fictitious codes of old laws—The Regiam Majestatem—Critical literature about it and other early laws—Actual vestiges of the old laws—Local codes, Lothian, Galloway, &c.—Pecuniary mulcts for offences—Money value of the citizen—Comparison with the spirit of the Roman jurisprudence—Influence of the spirit of neighbourliness and common responsibility—Spirit of fairness and humanity—Specimens of ancient laws—Ordeals—Battle—Rise and influence of municipalities—Protection to liberty—No Magna Charta, or Charters of the Forest—Such protective concessions not required, 50-77

CHAPTER XVII.

PROGRESS OF THE NATION TO THE WAR OF INDEPENDENCE.

(Continued.)

The germs of Parliament—Its relation to the oldest laws—The assemblages of national councils—Their consent to great national acts—Rise of the burghal corporations—Different grades of corporations—Power and wealth of the corporations—They form a separate Parliament or council—Interior economy of the burghs—Influence on progress of freedom—Relations with foreign municipalities—The burgh franchise—The exclusive privileges—Greatness of Berwick—Town dwellings—Rural dwellings—Dwellings of the nobility compared with the ecclesiastical buildings—No Norman castles—Magnificence of the remains of Norman churches—Testimonies to the wealth of the country before the breaking out of the war—Commerce, agriculture, and rural economy, . . . 78-III

CHAPTER XVIII.

THE DISPUTED SUCCESSION.

Narrative resumed—Doubts about the death of Queen Margaret—A pretender in Norway burned at the stake—King Edward and his position—Communications opened with him—The preparations for the assemblage at Norham—The assemblage and its elements—The notary public—King Edward's address—The assertion of superiority—The adjournment—Notice to the clergy, nobility, and community to put in any objections they have—How the nobility and clergy had nothing to say, and the community were not listened to—The roll of competitors—Exceptional claim of Florence, Count of Holland—All comers heard—The narrowing of the leet—The competitors finally limited to Bruce, Baliol, and Comyn—Their genealogies and claims as descendants of the Earl of Huntingdon—The meetings and discussions—The method of packing a jury for the decision—Adjournment—Doings apart—Examination and removal of records—Return of precedents ordered, . . . 112-140

CHAPTER XIX.

ADJUSTMENT OF THE SUCCESSION.

The assemblage resumed—A new claimant : Eric of Norway—The question lying between Baliol and Bruce, and between the distant descendant of the elder and the immediate descendant of the younger daughter—Indication of a leaning to the former view—Continued pleadings—Resolution of the question into the shape of litigation for an estate—This encouraged by Edward as Lord Superior—The competitors admit all his claims, and are ready to do homage—Questions of partition and compromise opened and pleaded—Peculiar case put in for the Count of Holland—The judgment in favour of Baliol—Ceremonies of homage—Ceremonies of investiture in Scotland—The new king's unpopularity and danger—Question how far put under restraint—Litigations appealed from him to the English Court—His humiliation—A crisis, . . . 141-162

CHAPTER XX.

WAR OF INDEPENDENCE TO THE BATTLE OF STIRLING.

Edward's quarrel with France—The opportunity for Scotland—Alliance between France and Scotland—The foundation of what is called the Ancient League—Its importance in European history—Popular conditions of its adoption on the Scots side—Edward's return and invasion of Scotland—The siege of Berwick—Baliol driven to renounce his allegiance—March northwards—Edinburgh—The removal of the contents of the royal treasury—Scone—Removal of the Stone of Destiny—Its strange history before and after the removal—The Black Rood of Scotland another acquisition—Its history—Edward's circuit and collections of homages—Appearance of Wallace on the scene—What is known of him compared with the legendary history—His capacity as a commander and organiser—How he gathered an army—His victory at Stirling Bridge, . . . 163-192

CHAPTER XXI.

WAR OF INDEPENDENCE TO THE BATTLE OF ROSLIN.

National influence of the battle of Stirling—Wallace's dealings with the Hanse Towns—Raids into England on the east and the west—Wallace's personal conduct—Protection to the monks of Hexham—Becomes guardian of the kingdom—Edward's second great invasion—Siege of Dirleton—Battle of Falkirk—Disappearance of Wallace from history—Questions as to his having gone to France and Rome—French and English diplomacy—France and Scotland balanced against Edward and the Flemings—The question of the independence of Scotland before the Court of Rome—A Papal emissary—His adventures on the border—The curious case laid before the Papal Court by King Edward—Active warfare resumed—The siege of Caerlaverock—Its history a type of the sieges of the day—Battle of Roslin, 193-218

CHAPTER XXII.

WAR OF INDEPENDENCE TO THE DEATH OF EDWARD.

The preparations for final subjugation—The march—The siege of Stirling Castle—Incidents and influence of the siege—Attempt at a moderate and conciliatory policy—Amnesties—Wallace to be an exception—Notices of his movements—His capture—Carried as a trophy to England—Peculiar policy in the form of his trial—His execution—Its effect on his countrymen—Organisation of Scotland—Incorporative union—Representatives of Scotland in a British Parliament—Revisal of the law—The great ordinance of King Edward—Preparations for an international Parliament at Carlisle—The national feeling—Edward's ignorance of it—Bruce's flight from London to Scotland—A new chapter in the war opened—Account of Bruce's position and claims—His allies—The slaughter of the Red Comyn—The enthroning of Bruce at Scone—Edward's preparations—His march—His death, 219-246

CHAPTER XXIII.

WAR OF INDEPENDENCE TO BANNOCKBURN.

Difficulties of the new king—Political position of the Highlands—Bruce's wanderings and adventures—Acts of personal prowess—Popularity—First germs of success—Contest with the Comyns—Assistance of the clergy—Their influence, spiritual and feudal—The oscillations of allegiance—Specimen of a shifting bishop—Siege of Stirling by Bruce—English national pride roused—Eagerness to do battle in Scotland—Collection of a great army—Peculiar conditions of the coming contest as fixed by the engagement to surrender Stirling—The position of the Scots army—Its personal composition—How both adapted to the occasion—The approach of the English hosts—Bruce's personal passage of arms—Randolph's skirmish—Battle of Bannockburn, 247-271

CHAPTER XXIV.

WAR OF INDEPENDENCE TO THE DEATH OF ROBERT BRUCE.

Effect of the battle of Bannockburn—A Parliament, and the adjustment of the succession—The Bruces induced to become leaders of the Irish national party—Cause of the Irish seeking them—The question of the independence again before the Papal Court—Adventures of a cardinal emissary sent to Bruce—Recapture of Berwick—Baffled attempts of England to recover it—Raid on England—A Parliament—The solemn address to the Pope, and resolution to hold by independence—A great invasion of Scotland again attempted—Its failure, and the method of it—Revenge taken by raids on England—Sufferings of the English people—Disaffection in the north—Aid offered to Scotland—Intervention of the Pope—Invasion of England—The treaty of Northampton—The death of Bruce, 272-308

CHAPTER XXV.

NARRATIVE TO THE ACCESSION OF THE HOUSE OF STEWART.

Accession of David Bruce—Edward Baliol and his claims—Their harmony with those of the disinherited Norman barons—Edward Baliol's invasion—Battle of Duplin—English in-

vasion—Siege of Berwick—Battle of Halidon Hill—Edward Baliol gives homage for Scotland—His successes and reverses—Peculiar method in which Edward III.'s aid was remunerated by territory in Scotland—English invasion—Connection of Scotland with France—The field of enterprise there opened to Edward III.—Consequent relief to Scotland—Gradual expulsion of the English—Sir Andrew Moray's regency—Battle of Colbleen—Departure of Baliol—Demoralising influence of this contest—Portion of southern Scotland retained by England—The battle of Neville's Cross—Its influence—Capture of King David—Political effects of his captivity—His ransom, and the sacrifices for it—An English invasion—Desecration of the religious houses—King David in Scotland—His unsatisfactory conduct as a King of Scots—Secret arrangements—Parliament and its proceedings, . . . 309-342

CHAPTER XXVI.

NARRATIVE TO THE DEATH OF ROBERT III.

Accession of Robert the High Steward—Adjustment of the succession—His dynasty called the House of Stewart—Genealogical mysteries—Troubles in England—Scotland's profit in tranquillity—Renewal of the league with France—Identity of the interests of the two countries—A body of French knights come to Scotland—What they saw there—A larger body from France, brought by the Admiral John de Vienne—Difference between French and Scots notions of war—Difference between their notions of civil rights—Angry return of the French—Their gift of arms to the Scots—Determination to invade England—A double invasion by the east and the west—The Percys—Douglas—Passage at arms—The battle of Otterburn—Its fame and characteristics—Death of King Robert—His son succeeds—His name changed from John to Robert, with the reason—Battle by two bodies of Highlanders on the North Inch of Perth—Difficulty in explaining it—Internal effects of the long contest with England—An English invasion—Battle of Homildon—Richard II. of England, and the question of his seeking refuge in Scotland—Death of Rothesay, the king's eldest son—Suspensions of foul play—His other son, James, taken by an English force on his way to France—Ascendancy of Albany—Death of King Robert III., . 343-384

CHAPTER XXVII.

NARRATIVE TO THE DEATH OF JAMES I.

Accession of James I., a child, and captive in England—Regency of Robert of Albany—Burning of Reseby, an Englishman charged with heresy—The Celtic population of the Highlands and their rulers—Final struggle for supremacy between Highlands and Lowlands—The battle of Harlaw—Its historical influence—The invasion of England, called the Fool Raid—Death of Regent Robert, and succession of his son Murdoch—The young King of Scots at the English Court—How trained and tended there—His marriage—The French alliance—Scots auxiliary force sent to France—Their losses, services, and rewards—Return of the king to Scotland—Prerogative notions brought with him from England—His dealing with the regent and the house of Albany—Contest with the Highlands—French connection and alliances—England's command of the narrow seas used against royal visitors between France and Scotland—Serious aspect of home politics—Organisation against King James—His unconsciousness of it—The Court at Perth—Murder of King James there, . . . 385-410

CHAPTER XXVIII.

JAMES II.

Fate of the murderers—An infant king—His coronation at Holyrood—Plots for his custody—Kidnapped by Crichton—The house of Douglas—The chief brought to Edinburgh and put to death—Effect of this—Secret source of the power of the house—Connection with France—Conflict with the Crown—Influence of the Crichton family—Mary of Gueldres—The Douglas band—Tragedy of the Tutor of Bunby—Slaughter of the Douglas in Stirling Castle—Gathering of the supporters of the house—Preparations for civil war—The tiger Earl of Crawford—Battle of Brechin—Great contest with the house of Douglas—Its overthrow for the time—A Parliament, and its dealings with the Douglasses, and other matters—Influence of the Wars of the Roses in England—Expedition to retake the territories captured by England—Siege of Roxburgh—Death of the king, 411-435

THE HISTORY OF SCOTLAND.

CHAPTER XIV.

NARRATIVE TO THE DEATH OF ALEXANDER II.

INFLUENCE OF THE TREATY OF FALAISE AS A FORMAL SURRENDER OF INDEPENDENCE—FORMAL ABANDONMENT OF ITS CONDITIONS BY RICHARD OF ENGLAND—ECCLESIASTICAL DISCUSSIONS—ASSERTION OF INDEPENDENCE BY THE SCOTS CHURCH—ITS POSITION TOWARDS THE KING, THE COURT OF ROME, AND THE CHURCH OF ENGLAND—DEDICATION OF ARBROATH ABBEY TO THOMAS A BECKET—DEATH OF MALCOLM—SUCCESSION OF ALEXANDER II.—CLAIMS ON THE NORTHERN COUNTIES OF ENGLAND—TREATY OF NEWCASTLE—ABSOLUTE ESTATES GIVEN TO BUY OFF THESE CLAIMS—GENERAL DIVISION BETWEEN ENGLAND AND SCOTLAND COMPLETED—ATTEMPT TO ADJUST THE EXACT MARCHES—CONTESTS IN THE OUTLYING DISTRICTS—TRAGEDY OF THE BISHOP OF CAITHNESS—QUESTIONS OF THE SUCCESSION—VESTIGES OF AN ARRANGEMENT WITH THE BRUCE FAMILY—POSITION OF THIS AND OTHER NORMAN HOUSES—DIFFERENCE OF THEIR INFLUENCE ON LOWLANDERS AND HIGHLANDERS—THE BYSSET TRAGEDY ARISING OUT OF THIS—ITS POLITICAL CONSEQUENCES—DEATH OF ALEXANDER II.

THE much-desired infeudation of Scotland was now complete, at least on parchment. In the great homage dispute, on one side of it at least, a perverse pedantry has depended on ceremonies and writs instead of broad historical facts; as if all that a high-spirited people could gain by ages of endurance and contest might be lost by

a slip of parchment. But it is odd that these pedantic reasoners should have overlooked how strongly this transaction bears against them. If the Scots people really were under feudal subjection to the Norman kings of England, what need to create that condition by a hard bargain with a prisoner? Or, supposing that the condition had really been established, and the King of Scots was a rebel, then the phraseology of the documents would have undoubtedly shown as much, and would have renewed or confirmed the past. What the conditions of the Treaty of Falaise do, however, is to create the new condition of vassal and superior from their date. They explain the opportunity, and certify the use it is put to.

We may depend upon it, however, that the English king and his advisers would by no means have been content to rest on pedantries. They would know that what had been lost by one opportunity might be gained by another, and care would have been taken by degrees that Scotland should have had no opportunity of regaining what she had lost. In feudal history such documents merely make the way to possession. Some feudal observance has been neglected, something has been done on which a quarrel may be picked; and the overlord at last reigns in the vassal's kingdom. Henry could not, perhaps, hope in his lifetime to complete what he had begun; but when Scotland was a quiet province of Britain, ruled by his successors, the merits of his dexterous policy would be remembered.

But this consummation was not to be. In the year 1189 Richard the Lion-hearted became King of England; and one of his first steps was to restore the position of the Scots kingdom by absolutely withdrawing what he described as the conditions which his father had extorted from William by new deeds, and in consequence of his captivity.¹

¹ "Quietavimus ei omnes pactiones quas bonus pater noster Henricus Rex Angliæ, per novas Chartas et per captionem suam extorsit." See the discharge at length in the *Fœdera* (Record edition), i. 30.

Richard took an obligation for ten thousand marks as the price of his discharge. But in whatever way we look on the affair, it savours of his romantic spirit, since the money would only go to help him in his crusading expedition to Palestine.

The transaction by which the people of Scotland had been brought formally under the same Norman yoke as their English neighbours included their Church, but there was a difference in the formalities of the two transfers. The feudal subjugation was made as distinct and complete as words could make it. For the Church of Scotland, it was to be so far subordinate to the Church of England as it had been during the reigns of King Henry's predecessors. Reading the sentence in which the ecclesiastical conditions are regulated along with the carefully-studied clauses for clenching the feudal supremacy, one cannot help suspecting that the draftsmen of the documents, whoever they were, cared less for the ecclesiastical than the feudal part of the transaction. This impression is not lessened by our finding that there were present and assenting some dignified officers of the Scots Church—the Bishops of St Andrews and Dunkeld, the Abbot of Dunfermline, and the Prior of Coldingham.¹ Probably just after the great à Becket affair King Henry was not very anxious to aggrandise the power of the English Church; and though there were English ecclesiastics who acted as witnesses, they were not, like those of Scotland, made parties.

A Papal legate, Cardinal Petroleonis, held an ecclesiastical conference or council at Northampton in presence of King Henry. In deference to so august a person, the King of Scots was present, with the Bishop of St Andrews

with the title, "*Littera Regis Angliæ de Redditione Castrorum, &c. ; et de restitutione omnium libertatum quas habuerunt Reges Scotice ante captionem Regis Willelmi.*" It was set forth in the celebrated pleading before King Edward, concerning the succession, that this restoration by King Richard was illegal; he could not dismember the empire of which he was sovereign. — Palgrave's *Illustrations*, 22.

¹ *Fœdera* (Record edition), i. 30.

and five other bishops. They were formally required to conform to the treaty, and acknowledge themselves subordinate to the English Church. They denied on the spot that there was any such supremacy over them. The Archbishop of York specially asserted the old claim over Glasgow and Galloway, and appealed to documents in support of it; but Jocelyn, Bishop of Glasgow, maintained that he was under the direct authority of the Bishop of Rome, and no other prelate could step between them. While the Scots bishops chose so to assert themselves, the English had no help for it, since they had lost their former opportunity. King Alexander and his bishops had been suppliants to them for the spiritual rite of consecration, having unpleasant doubts whether those who might be called bishops among the Scots Culdees really were commissioned to impart this sacred constitution. But now the country had a body of thoroughly attested bishops, who had every element of Catholic legitimacy, and who could laugh at the claims of their English brethren to reign over them. It happened, too, that the English policy of dividing authority in the Church by a double primacy was favourable to the Scots Church. Canterbury and York quarrelled for authority over it. The old tradition that Canterbury was supreme in Britain, as the holder of the powers granted to St Augustine, was revived. It was not in this instance asserted as an authority over York, yet it touched that primacy on a tender point. There was more at issue than the mere local adjustment by which the one might be supreme in the north and the other in the south. It was from York that the Scots Church had got its spiritual title, and to York, then, its allegiance as a group of suffragan dioceses was due.

The Scots bishops, on their return, sent agents to Rome. There they managed their business so well that they returned with a bull from Pope Alexander III., which was a thorough triumph to the Scots clergy. In high terms it rebuked the King of England for meddling in matters spiritual by demanding concessions from the Church of Scotland, and forbade York to demand suprem-

acy, or the Scots Church to concede obedience, until the questions at issue were decided at Rome.¹

A cardinal, Vivian Tomasi, was appointed legate from Rome to take cognisance of the question. He had other business in hand, for he went to England, Ireland, and the Isle of Man, where he asserted the influence of the Church in a special shape by compelling the king of that island to go through the ceremony of marriage with the mother of his celebrated son, Olave the Black. It is said that, as he passed through England, King Henry refused him a passage northward until he made oath to do nothing in prejudice of the English claims. He transacted business with a council in Scotland, but nothing of a substantial kind appears to have come of their deliberations.²

But there was a more severe contest at hand between the King and the Church, which threatened to throw Scotland into such a sea of troubles as had just been vexing England. There was a certain Joannes Scotus, Archdeacon of St Andrews, the nephew of the Bishop of Aberdeen, and otherwise influential in the Church. On the occurrence of a vacancy in 1178 he was elected Bishop of St Andrews by the chapter. The king having destined this benefice for Hugo, his chaplain, put him in possession of the temporalities, and managed to get him consecrated. Joannes appealed to the Pope, who put the matter into the hands of the legate Allexius. The legate decided in favour of Joannes, and consecrated him as bishop. A battle now began between the temporal and the spiritual arm. The king banished Joannes, and,

¹ *Registrum Episcopatus Glasg.*, i. 35; *Statuta Eccles. Scot.*, Pref., xxxvi.

² "Nothing more is known of the council than that it renewed many ancient canons and enacted new ones. Some of them appeared to have curtailed the immunities and impaired the revenues of the Cistercians. The monks of Rievaulx, the mother of all the Scottish abbeys of the order, sent a letter to the bishops of Scotland adjuring them to repudiate the statutes which their legate Vivian had made against the brethren of Citeaux, and the dull dry page of the Cistercian Chronicle of Melrose sparkles into invective against his rapacity and violence."—*Statuta Eccles. Scot.*, Pref., xxxvii.

as it would appear, some of his supporters, out of Scotland, and the legate professed to lay the diocese of St Andrews under interdict. The affair is spoken of so lightly even by ecclesiastical writers, that it cannot have been considered that the legate could effectually carry out that awful sentence. The Papal Court was again called on to interpose, and the device was adopted of giving power to those who were asserting a spiritual authority over the Scots Church. The Archbishop of York and the Bishop of Durham were invested with legatine powers, enabling them to excommunicate and interdict any persons, lay or ecclesiastic, from the king and the bishops downwards. They set to work with threats, and when any one obeyed these he was punished by the civil power. The quarrel was brought to a sudden stop by a change at Rome. Pope Alexander died, and was succeeded by Lucius III., who disliked quarrels with the temporal powers. There was an immediate adjustment, by which Hugo got St Andrews, and his competitor was made Bishop of Dunkeld.

It will be easily understood that King William the Lion was no favourite with the ecclesiastical annalists who had to record such transactions. The illustrious Welshman Dubarri, better known as Giraldus Cambrensis, goes out of his way to characterise him as a tyrant to the Church, and in fact an imitator of the egregious abuses of the Norman tyranny in England. Yet King William did an act that should have endeared his memory to the ecclesiastical mind, and especially to that portion of it which was then struggling for ecclesiastical supremacy over temporal powers. He founded the great Abbey of Arbroath, endowing it with estates and church patronages stretching over distant districts of the country. The broken remains of the great church of the abbey still testify to its magnificence. But more remarkable even than the splendour of the endowment was the method of its dedication. Usually the memory of saints has been mellowed by antiquity before they have become the object of such dedications; but King William devoted his great gift to the memory of Thomas à Becket, whose blood had been

freshly shed. He was killed in 1170, his canonisation was registered three years afterwards, and the Abbey of Arbroath was founded in 1178. One cannot but believe that this peculiar act was done under the influence of some especial policy, though what it exactly was is not clear. The simplest view was to hold that the king desired to obtain a share in the blessings scattered about by so eminent a martyrdom; and an explanation equally simple, but of another kind, was, that in their early days he and Becket were friends and companions at the court of King Henry.¹

The reign of William the Lion lasted down to the year 1214. In its latter years it was again animated by prospects of mastering the Northumbrian and Anglo-Cumbrian provinces, when King John of England was getting into his troubles. William was able to defeat a design formed by the English king to build a frontier fortress on the English side of the Tweed, and both kings had for some time armies menacing each other on the border, but not coming to blows.

His son, Alexander II., who succeeded him, a youth in his seventeenth year, inherited this border contest and its hopes. There was an understanding between the young King of Scots and the league of English barons, the end of which was of course to be the annexation of the northern provinces to Scotland; indeed they professed to put King Alexander in possession of them. To maintain the acquisition a Scots army infested the district, and King John sent a retaliative force, which penetrated into East Lothian. Again there is, during the years 1216 and 1217, the old work of cruelty and devastation on both sides, with nothing to vary it, until at last the fate of the French invasion put an end to the hopes of acquiring the border provinces for Scotland. So lately as the year 1237, the claims on the Northumbrian districts were discussed between the crowns in a friendly and diplomatic form. The old demand

¹ "Ob familiarem amorem inter ipsum et Sanctum Thomam, dum adhuc in curia Regis Henrici esset, contractum."—*Chronicon de Lanercost*, II.

was made by King Alexander ; and Henry III. met it by a proposal to give the King of Scots certain manors in Cumberland and Northumberland, not in sovereignty, but in feudal property. The offer was accepted as on the whole advantageous to the Scots king, and a relief to the people from hopeless attempts at conquest in a country now strongly united with the central government of England. Any reasonable adjustment putting an end to claims on the northern counties was scarcely less a blessing on the English side. The repeated invasions by the Scots shook the country to its heart. It has to be noticed that we have only the English side of the question in all matters of dispute between the two nations, since all the annalists of the period were Englishmen. They have to tell of the King of Scots coming to do homage to the King of England, as holding estates of him in feudal vassalage ; but the tone of their narratives is as if they spoke of a formidable neighbour coming to demand tribute. It is somewhat as the historians of the later Empire spoke of the Franks, and as the French chroniclers spoke of the Norsemen. They are rude barbarians, coming in all reverence to the court of the civilised sovereign, yet they are objects of uneasiness and alarm. For the estates and honours given to bribe them they do humble homage, yet their rapacity is not appeased—they are not content with the bribe—and again, in an aggressive humour, are crossing the border and threatening their benefactor. The whole story has a significant resemblance to the attempts of the King of France to buy off and soothe the Norsemen, whose chief professed all due homage in proper form, yet, according to a common legend, took a sly opportunity to apply his awkwardness in court fashions, so as to trip up the paramount monarch in the course of the ceremony.

Apart from the question of bringing up the claims on the northern counties, handing over the estates on the border to the King of Scots kept alive the policy of the English court to have him coming there to do homage for something or other. This was perhaps the more desirable that the honour of Huntingdon had now gone to a collateral—the descendants of Prince David, William the

Lion's brother. The precision of old Anglo-Norman records enables us to know the exact nature of the new holdings without letting us see the reasons why some are so different from others. The King of Scots' estates in Cumberland—such as Penrith, Scotby, Sowerby, and others—were held as mere estates in homage, with the proper fealty which the enjoyer of the reality of property had to give for it to the sovereign. This acknowledgment had nominally to be made every year, and the shape in which the King of Scots had to make it was by delivering a falcon at Carlisle Castle. Tyndale and other lands in Northumberland were held by simple homage, not in property, but in regality or sovereignty, subordinate to the sovereignty of England; and here the King of Scots did not merely draw rents and profits as a landlord, but administered justice through his Justiciar.¹ These English estates of the Scots crown are referred to in subsequent documents as “Tyndale and Penrith.”

From this period the efforts to extend the Scots frontier cease, and the people of the northern counties of England got quietness for a time, and until they found themselves as part of England invading the inhabitants of the country whence they were so often invaded. The boundary of the two kingdoms had now an opportunity of becoming distinctly and permanently recognised. A few years earlier, in the year 1222, we have a memorandum of the proceedings of a joint commission to measure off the exact line of the marches of the two countries. There were certain knights of Northumberland on the English side; on the Scots the Justiciary of Lothian, with the Earl of Dunbar

¹ Palgrave, Documents illustrating the History of Scotland, 3-6; Introd., vi. vii. See also Documents illustrative of the History of Scotland from the Death of King Alexander the Third to the Accession of Robert Bruce, “selected and arranged by the Rev. Joseph Stevenson” (published under the authority of the Lord Clerk Register), 2 vols. The first paper in this collection is an account “of the Rents and profits of the Lands and tenements in Tyndale lately belonging to Alexander, King of Scotland, deceased.” It is dated in 1286, the year of his death. This is followed by a long succession of documents relating to the estates of the King of Scotland in the north of England.

and other knights. The report of the affair to Henry III. by his chief commissioner preserves the etiquette of equality between the contracting parties. He tells the King of England how they met and exchanged courtesies, and then tried if they could agree in tracing the boundary-line between his kingdom of England and the kingdom of Scotland. It seems to have been a partial attempt only, to begin at Carham, which is now in England, and end at Howdean, near Jedburgh. Six commissioners were chosen on either side. As the six from Scotland would not concur with the view taken by those of England, the joint commission was recast, but again set to work without success. They began at Reddenburn in the parish of Sprouston, a feeder of the Tweed; but when the English proposed to trace by Hoperiglaw and Whitelaw, the Scots would not follow them; and the attempt was abandoned, the English commissioners entering a protest that their line was correct—and it certainly, in touching Whitelaw, agreed with the line of the border as now laid down in the Ordnance Survey. Whether there was any further attempt at an exact tracing of the border line may be doubtful, since in later negotiations we find allowance made for a tract called the debatable land. But the record affords evidence that the division between the two countries, as it afterwards remained, had even at that time settled down by usage, since the line which the commissioners are to find is that of the ancient marches.¹

The virtual adjustment of the boundaries of the two kingdoms, bought as it was by England with a price, gave peace for a time on the border, but the reign of the young prince was amply troubled elsewhere. He inherited from his father difficulties in many shapes as to the outlying provinces, as they might be termed—those to which the King of Scots professed a title which he could rarely make effective. He had not much authority north of the Tay,

¹ “Qui rectam perambulationem facerent inter regnum vestrum Angliæ et regnum Scotiæ;” and again, “quod rectas et antiquas marchias et divisas inter regna prædicta recognoscerent.”—Royal and other Historical Letters illustrative of the Reign of Henry III., Rolls edition, i. 187.

and the regions beyond the Moray Firth were still in the hands of a representative of the old Maarmors sufficiently strong to make war on the King of Scots. In the West Highlands—the old patrimony of the race of Fergus—there was a ruler whose title came from the conquests of the Norsemen; and the family which predominated in Galloway asserted a sovereign position by overtures for alliance with the King of England. This family had murderous internal disputes; and when these ended in the supremacy of one branch, its interest in the support of the King of Scots was furthered by its head, Allan of Galloway, becoming Lord High Constable, as the office came to be called, of Scotland. It happened to his posterity to have a closer connection with the destinies of Scotland, from his daughter marrying the head of the house of Baliol.

Of the untamed condition of the northern district there had been a recent example in the fate of a poor bishop, who was daring enough to attempt to become a spiritual shepherd in distant Caithness. Harold, earl or king of Orkney, had been driven from a settlement in Caithness, which he determined to retake if he could. He arrived with ships and men, and found the new bishop there installed. The bishopric was created by one of the sons of St Margaret, and was therefore an assumption of authority over the northern district by the King of Scots. Whether on this account, or because the bishop attempted to levy "Peter's pence," the earl was savagely enraged; and finding the bishop coming forth from his palace at Scrabster on the west coast, seized him, and horribly mutilated him. It is significant that this narrative comes from the Scandinavian side, and would have continued to be doubted, as it had been, were it not confirmed by Pope Innocent III., better informed than the King of Scots about an event in which the Church in Caithness was concerned. He had been told of it, indeed, by the Bishop of Orkney, who would feel an interest more acute than satisfactory in such an affair; and Innocent, writing back in the year 1202, acknowledges the substance of the news: "We have learnt by your letters that Lombard, a layman, the

bearer of these presents, accompanied his earl on an expedition into Caithness ; that there the earl's army stormed a castle, killed almost all who were in it, and took prisoner the Bishop of Caithness ; and this Lombard, as he says, was compelled by some of the earl's soldiery to cut out the bishop's tongue." The Church, having been so successful with the great King Henry of England, was not likely to spare this petty ruler, and precise articles of penance were laid down for him. For fifteen days he was to walk about conspicuously in his own territories with bare feet, and only clothing enough for decorum, his tongue being tied so as to hang forth from his mouth, while he suffered the active discipline of the rod. He was then within a month to set forth to Jerusalem, and there serve the Cross for three years. When all this, with some minor penalties, was accomplished, he might be received within the bosom of the Church.¹ The Orkney earl, however, was not so easily accessible as the King of England. We know only that the penance was evaded. The affair tended to the consolidation of the dominions of the King of Scots, for it induced William the Lion to march northwards and strike one more of the many blows which at last broke the power of the rulers beyond the Moray Firth.

It must have been some time before the year 1240 that an event of national moment occurred, rendered mysterious by the way in which it came to the knowledge of later times, since it is mentioned in none of the usual chronicles, and is only known because, some fifty years afterwards, the person chiefly concerned founded on it for the purpose of accomplishing an object. It was brought up in the discussions about the succession to the crown in 1291 by Robert Bruce, Lord of Annandale. He asserted that Alexander II., despairing of issue, had brought the succession to the crown under the consideration of the prelates, nobles, and good men of the country—of a parliament, such as there then was—and that the result was an

¹ Orkneyinga Saga, 415 : Epist. Innocent III. ; and other authorities cited in "Two Ancient Records of the Bishopric of Caithness."—Bannatyne Club, 1848.

arrangement that, if he died childless, Robert Bruce was to succeed him as king, being the nearest male relation.¹

The arrangement was not an unlikely one. Bruce was a son of Alexander's cousin-german, the daughter of David, Earl of Huntingdon. He was then the only male descendant of any daughter of Earl David, though others came afterwards and competed for the succession, as we shall see.

The family of Bruce was one of the most powerful in the north of England. It is one of the many Norman houses illustrious since the Conquest, but not very easily to be traced further back, though in this instance the efforts to stretch the pedigree have been very vigorous.²

The house of Bruce was a fine type of those Norman races in whose hands were the destinies of so many European communities. Why they should have been so loved and courted, is one of the mysteries in the history of social influences. What they were at the court of Edward the

¹ Bruce asserted that there were those alive who could testify to the fact; and although there were many exaggerations and falsehoods in the pleadings of the competitors for the crown in 1291, it is difficult absolutely to disbelieve such an assertion. There is no statement of its having been contradicted on the notarial record of the discussion, where it is distinctly minuted (see *Fœdera*, Record edition, i. 777). It is referred to in the fragments, discovered from time to time, of the pleadings and documents connected with the great competition; but in these, too, there is no trace of a contradiction. The occasion of the affair was, it seems, Alexander's departure to a war in the Isles. In the year 1249 he set off on such an expedition, and died on the way. This cannot, however, have been the war referred to by Bruce, for his statement is, that Alexander was in despair of having an heir of his body—*desperans de hærede de corpore suo*; but when he went on this expedition he left his son behind him. This son was born in 1241, by his father's second marriage in 1239.—See Sir Francis Palgrave's Documents and Records illustrating the History of Scotland.

² Attempts have been made to bring the cradle of their race home to Scotland, in Bruce, a son of the Earl of Orkney by a daughter of an early Malcolm of Scotland, whose descendant went with Rollo to France, and built the Castle of Brix. According to some Norse authorities, however, Bruce was a son of Sigurd, Earl of Orkney, by his first wife, while the daughter of Malcolm was his second (see vol. i. p. 321). Few of the Norman houses are so well worth tracing backwards, were there any chance of success in the pursuit.

Confessor, they became in the courts of the Scots kings from David downwards.¹

In looking to the success of the Normans, both social and political, as a historical problem, it has to be noted that we have no social phenomena in later times with which this one could be measured and compared. Coming from the rude north into the centre of Latin civilisation, they at once took up all the civilisation that was around them, and then carried it into higher stages of development. We have no parallel to this in later times. Civilised communities have not found barbarians improving on them. If we were to see exemplified the phenomenon of the rude sea-rovers transformed after a couple of generations into the courtly Normans, we must suppose some of the barbarous races we have come in contact with in America, Africa, or Australasia, becoming more civilised than ourselves. There was in the case of the Normans a preceding cause, however, apparently necessary to such a phenomenon, but happily wanting in later times. The barbarians were the invaders, not the invaded; they were from the beginning more powerful physically than the civilised people whom afterwards they were to excel even in civilisation.

Though neither was a sudden affair like the conquest of England, yet their migration to France, and their migration to Scotland, were things as different from each other as the rough sea-rover is different from the courtly knight

¹ Sir Thomas Gray, in his Chronicle, written early in the fourteenth century, tells how William the Lion brought with him, when returning to Scotland from his captivity, younger sons of the families to whom he was indebted for courtesies, and how he endowed them with lands. We cannot take the passage as precise statistics. We may get more from it by counting it as the shape into which the chronicler put the traditions of the migration of the great Norman houses to Scotland. In this view the list of names is instructive: "Il enprist od ly en Escoce plusours dez fitz pusnes dez seynours Dengleterre qi ly estoient beinuoillauntz, et lour dona lez terres des autres qy ly estoient rebelis. Si estoient ceaux dez Baillolfs, de Bruys, de Soulis, et de Moubray, et les Saynclers; lez Hayes, les Giffardis, les Rame-says, et Laundels; les Biseys, les Berkleys, les Walenges, lez Boysis, lez Mountgomeris, lez Vaus, lez Colevyles, lez Frysers, lez Grames, lez Gourlays, et plusours autres."—*Scalacronica*, 41.

endowed with all the attributes of chivalry. One would think that, looking to their history, they might have been deemed dangerous guests. Yet the formidable qualities that made them so, might be in some measure the reason why they were courted. Perhaps there was a feeling that protection was to be found at the hands of that mighty race who were subduing all others unto themselves—such a feeling as induces Oriental governments to attract European adventurers to their courts. Supreme in England, and everywhere stretching the boundaries of their power, it may have seemed a wise precaution against the aggrandising efforts of such potent neighbours to give them a stake in the nationality of Scotland. Supposing this to have been the policy which filled Scotland with Norman adventurers, and gave them estates, titles, and offices, it might seem to have been a sad failure at the time when the most eminent of these Normans were competing with each other to sell the independence of the country as the price of wearing its degraded crown. Yet in the end it was the descendant of the earliest and most highly favoured of these adventurers that wrested Scotland from the Plantagenet kings, and established in the country a permanent national government.

The Normans were by no means popular throughout the country. We have seen that on the death of Malcolm III., their first patron, a change of dynasty was almost effected upon the policy of driving them out. In some places they were long unwelcome. An English chronicler, generally well informed, tells how the wild men of Galloway, whom we have seen so eager to be let loose on the Normans at the Battle of the Standard, when they returned home from that affair, put to death all the French and English strangers they could lay hands on. They took the opportunity of the king's captivity to rid themselves at the same time of the representatives of royalty; but as to these they were content to drive them out of their country.¹ It tends to confirm this story, that the Nor-

¹ "Statim expulerunt a Galueia omnes Ballivos et custodes quos Rex Scotiæ eis imposuerat, et omnes Anglicos et Francigenas quos apprehendere poterant interfecerunt."—Benned. Ab.

man adventurers were shy of Galloway as a suitable place of settlement, and the absence of names belonging to their race among the early landholders there, has been noticed as conspicuous.¹

Among the Irish Celts of the western and central Highlands, on the other hand, this policy of planting Norman settlers appears to have been very effective. It is a peculiarity of these races that they must have leaders—they cling to the institution by a law of their nature; and if the desired dictator and guide do not come in one shape, they will take him in another. This was a disposition exactly adapted to the Norman feeling of superiority and command. Accordingly, we find that, when these adventurers got themselves established, they rallied round them devoted clans of followers, who looked up to them as their natural leaders and commanders. An incident occurred in the year 1242 which showed the tendency of such connections, and had an important influence on subsequent events. The house of Bysset had great possessions in the Highland country around Loch Ness. In the year 1242 there was a tournament near Haddington, where some of the family of Bysset, with their followers, were present. It so happened that one of them was unhorsed by the young Lord of Athole. Speedily afterwards Athole was slain, and the house in Haddington where he abode was burned: it was probably built of wood, according to the practice of the period. The Byssets could not clear themselves from this unchivalrous deed. It was, indeed, clearly the doing of their followers; and Highland history shows us that, in times far later, it was impossible to restrain the vengeance of such followers when insult or injury was done to their leaders. Of any such law of chivalry as that which contemplated conflict without deadly malice, and permitted a victor to live if he could be slain, they could form no conception. A strong feeling set against the Byssets. Their estates had to be forfeited, and the head of the house escaped alive with great difficulty. The family afterwards pushed their fortunes with the other

¹ Innes's Sketches, 96.

Norman houses in Ireland, and their Highland estates went to the Frizelles or Frasers, who founded an influence which became troublesome to the government five hundred years afterwards.

In the mean time the head of the Byssets found refuge at the court of King Henry III. Here, as the chroniclers tell us, he maintained that he had a right to appeal against the forfeiture to the English king as lord paramount of Scotland. In all such questions, great or small, it is well known that the raising of a practical point has an immense influence in bringing wide questions of principle to a bearing. This eminent leader, pleading his practical grievances of condemnation by a sort of ostracism and the forfeiture of his estates, was supposed to have gone far in impressing on the English court the policy of practically asserting the superiority over Scotland. Something was said at the same time about the Scots king encouraging English traitors and enemies of the English king. It is difficult altogether to find sufficient immediate cause for what occurred in 1244, just two years after the affair of the Byssets. A great English force then marched to the border and menaced Scotland, while a Scots army was mustered for the defence of the country. It amounted, if we may believe the chroniclers, to above a hundred thousand men, and passed over the border into English ground.

This hostile array on both sides is all the more unwelcome a difficulty, that we are told by the chroniclers how, two years earlier, when King Henry was called abroad, he left his close friend, the King of the Scots, in charge of the border districts,—those very territories which the kings of the Scots had been for centuries striving to bring under their own dominion. It has been supposed that there was some foreign element of anxiety or umbrage to the English king arising out of Alexander's second marriage, when he took to wife Mary de Coucy, a lady who figures more in her son's reign than her husband's. But the alliance itself could not have been the direct cause of offence, for it was now five years old, dating in 1239.

Whatever may have been the cause of the demonstration, it was insufficient to incite to blows. If the Scots

king was at the head of so large and well found a force as the chroniclers speak of, there was on the other side an element new to an English army, and not, perhaps, one productive of much confidence on the eve of a battle. To put to use the new acquisitions of the English kings, bands of the Irish were brought over under their native chiefs or kings, and we find King Henry with all solemnity recording his thanks to some twenty of these, with as near an approach to their proper designations as the Norman scribe could accomplish.¹

Thus there was no fighting, and the sovereigns came to terms in the "Treaty of Newcastle." In its adjustment, no reference seems to have been made to homage on the part of the King of England, or to possessions south of the border on the part of the King of Scotland; but each engaged not to abet the enemies of the other, and not to make war on the territories of the other without just provocation. From the tone of the chronicles it might be inferred that King Henry found his army averse to a contest; that the spirit of the Englishman prevailed over that of the Norman aggressor; that there was a friendly feeling towards the Scots; and, in short, that the army could not see a legitimate ground of quarrel. Another consideration which may have rendered restraining councils the less unwelcome to the Norman mind is suggested by subsequent events. If conquest was the object, Wales afforded a more likely field for the employment of Henry's army; and at all events, a cruel war there immediately followed the demonstration on the Scots border.

Alexander II. died in the year 1249, in the small barren island of Kerrera, which fronts the Bay of Oban. He was there on an expedition to extend, partly by negotiation, partly by force, the authority of the crown of Scotland over these islands and northern districts, which, so far as they were not in the hands of independent local rulers, held rather of the King of Norway than the King of Scots. Alexander boasted that he would set his standard on the cliffs of Thurso, a threat inferring that it was to wave

¹ *Fœdera*, 7th July 1244.

over his enemy's ground rather than his own; and John, son of Duncan, King of the Isles, was induced to visit and negotiate with the King of Scots, but only after obtaining hostages for his personal safety. But John found in the end that it was his safer policy to hold by Norway, which had still the command of the seas. These incidents, personal to King Alexander II., and his death, belong to transactions connected with the completion of Scotland as a separate kingdom so important as to deserve a separate narrative.

CHAPTER XV.

NARRATIVE DOWN TO THE DEATH OF THE
MAID OF NORWAY.

ALEXANDER III.—HIS BOYHOOD—INFLUENCE OF HIS MOTHER, MARY DE COUCY—HIS INAUGURATION AS MONARCH, AND THE PECULIAR CEREMONIES OF THE OCCASION—GREAT QUESTION OF THE ANOINTING OF THE SCOTS KINGS—ITS CONNECTION WITH THE CLAIMS OF ENGLAND AND OF THE COURT OF ROME—FULFILMENT OF TREATY OF NEWCASTLE—MARRIAGE OF THE YOUNG KING WITH AN ENGLISH PRINCESS—THE QUESTION OF HOMAGE—THE RULE IN SCOTLAND DURING THE MINORITY—FACTIONS OF THE COLLATERALS LOOKING FORWARD TO THE SUCCESSION—COMYNS AND DURWARDS—INTERFERENCE BY THE ENGLISH KING—THE ISLANDS, AND THEIR CONNECTION WITH NORWAY—HACO'S INVASION—THE BATTLE OF LARGS—ITS INFLUENCE—INCREASE OF TERRITORIAL POWER—TAXATION OF THE CHURCH—BAGIMOND'S ROLL—ECCLESIASTICAL COUNCILS—AN ECCLESIASTICAL CODE—TAMPERINGS WITH THE RECORDS OF HOMAGE—HOPEFUL FUTURE OF THE COUNTRY—DISASTERS—DEATH OF THE KING'S DAUGHTER, THE QUEEN OF NORWAY—DEATH OF HIS SON—HIS OWN DEATH—DEATH OF THE HEIRESS, THE MAID OF NORWAY.

ALEXANDER II. left a son who succeeded him, with the title of Alexander III. He was not eight years old when the succession opened to him. There was no attempt to compete with his claim; and here was another instance, following that of Malcolm IV. at an interval of nearly a century, to show that there was a principle of hereditary stability in the succession to the crown. His mother came of a remarkable stock. Alexander II.'s union with Joan of England had been unfruitful, and soon after her death in 1239 he took to wife Mary, daughter of Enguerand de Coucy. This family specially represented

the spirit of chivalry. It was not very ancient, nor did it ever boast of great territories. It was the time when the Knights Templars and other orders were developing here and there into powers of a corporate character, which rivalled those of territorial monarchs. The boastful motto of the De Coucys, expressing their pride in the rank which they maintained in this order or caste, is well known.¹ This family had brilliant alliances. Enguerand had for his brother-in-law the Emperor Otho IV. And now his daughter was a queen. She was a woman with a will of her own, and helped by her activity and influence to protect her son from the dangers around him, and to shape the policy of the rule that had to be exercised in his name.

If we are to adopt what we are told by Walter Bower, writing nearly two hundred years afterwards, we find the royal boy crowned at Scone with great pomp, the dignified clergy and great feudatories of the crown attending. Mantled, sceptred, and crowned, he was seated on the mysterious Stone of Destiny, in front of the altar, at the east end of the church of Scone. Then occurred a peculiar episode. A venerable, white-bearded man of the Highland tribes, clad in a scarlet cloak, came forward, and recited in his own tongue the genealogy of the young king. When repeated in modern books, this incident looks like a dramatic decoration; but those acquainted with such writers as Bower will feel that he would not have recorded it without strong reasons for believing in it. It was not an incident congenial to historical ideas in his day and among his class. The Celt had then sunk far down in the scale of estimation; and to the Lowland churchman of the fifteenth century the Highland seer was as unlikely a participator in state ceremonies as the Indian medicine-man might be to the New-Englander of the eighteenth century. It is the oddity of the affair that seems to have struck the chronicler; and, on the whole, it is likely to be more accurate than the other specialties described by him.²

¹ "Roi ne suis, ne prince aussi;
Je suis le Sieur de Courcy."

² There can be no doubt that the description (Scotichron., x. 2,

Perhaps the secret why the chronicler is so picturesque and circumstantial about the coronation of the young king is, because it came to be connected with some curious questions about the inauguration of a king of Scots. There stands on record a courteous letter to King Henry of England by Pope Innocent IV., professing to be an answer to Henry's earnest request that the Pope would take steps to prohibit the anointing and crowning of the young King of Scots, because he was the liege vassal of the King of England. The Pope tells him not to be surprised at the refusal of such a request, as there was no precedent for compliance with it. At the same time, the King of England might be assured that the Court of Rome would take no steps likely to interfere with the royal dignity of a sovereign.¹

It is at first sight difficult to understand how Henry could expect his request to be of any use, for Innocent's letter is dated in 1251. The young king was crowned, according to the chronicles, on the 13th of July 1249, six days after his father's death.

Skene's edit., 294) applies to a Highlander. He is "*quidam Scotus venerabilis . . . quamvis silvester et montanus honeste tamen pro modo suo indutus.*" He speaks *materna lingua*, and there is an attempt to report the commencement of his address, thus: "Benach de Re Albanne Alexander, Mac Alexander, Mac Vleiham Mac Henri Mac David, &c., *quod ita sonat Latine, Salve Rex Albanorum Alexander Fili Alexandri Filii Willielmi,*" &c. The genealogy is carried back into remote fabulous ages; and this portion of the episode is less credible than the rest, as there is reason to believe that these very ancient genealogies of the kings of Scots were the creation of the chronicler's own day. Scone is near the Highlands, and the appearance there of a mountaineer could not be very wonderful at any time, or, indeed, worth notice. In this instance, however, it forced itself on the chronicler's notice by the important and unusual function performed. The story suggests the probability that the Celts still retained a stronger position in the country than the ordinary annals give them, because these were written in later times, when the Celt had become a creature to be hunted off the earth. Had we earlier authentic chronicles, we would doubtless know more of the steps by which the predominant race of the Dalriadic Scots sank into what they afterwards became. It is observable that Lord Hailes does not stoop to mention the episode of the Highland sennachie. Highlanders had not become fashionable in his age.

¹ *Fœdera* (Record edition), i. 277.

But was this a coronation of the solemn kind which King Henry desired to defeat? Was King Alexander crowned and anointed with the ceremonies authorised at Rome? The anointing of kings, according to the tradition of the scriptural usage, was one of the influences made available for diplomatic purposes by the Court of Rome. Many kings were strong enough to hold their own without it, yet it gave a tone of respectability and solemnity to the rule of those who got it, and thence was much coveted. Its extension in any new direction was ever a matter of grave consideration, in which the importance of admitting a new member among the ecclesiastically sanctioned monarchs must be weighed against the displeasure and jealousy of those already included. Properly, indeed, to be anointed was the sole privilege of the Emperor, as holding civil jurisdiction over the Christian world co-ordinate with the Pope's spiritual jurisdiction. But other monarchs came to be more powerful than the Emperor. So the kings of England and France were admitted to the privilege, along with the King of Jerusalem, whose position gave him peculiar claims. There are traces of the anointing having been twice requested for Alexander II., and twice refused; and it does not appear to have been conceded to Alexander III. That a crown came to be used when a king of Scots was inaugurated, is shown by the appearance of such an article from time to time as a valuable piece of property. But it appears that a full coronation, in the ecclesiastical sense of the term, was not conceded to any king of Scotland earlier than David, son of Robert the Bruce.¹ It is certain that in the great pleadings held before King Edward I., when he asserted his claim as Lord Paramount of Scotland, it was put as a material point that the King of Scots was never anointed. Indeed it was said that the

¹ See in the Notes on the Preface to the *Statuta Ecclesiæ Scotticæ*, p. xlviii. *et seq.*, a very curious critical examination of the accounts of the inauguration of the kings of Scots, tending to the conclusion that the phraseology of the chroniclers is influenced by their sense of the imperfectness of the ceremony, as wanting the ecclesiastical element.

ceremony of his installation was less solemn than that of the Prince of Wales, who was decorated with a garland, and placed on his throne by bishops.¹

After the young king's inauguration, the next step was to give effect to a condition in the Treaty of Newcastle, by which he was to become the husband of the English princess Margaret. King Henry took care that this should not be long delayed, and they were married at York on Christmas-day in the year 1251. The Archbishop of York performed the ceremony, and had the responsibility of entertaining the illustrious guests. The King of England was there, so was Mary de Coucy, the mother of the young king, with a great foreign attendance; and few affairs in that age were surrounded with more lustre than the marriage of these two children. We have it on the authority of the English chronicler, Matthew Paris, that the young king went through the form of homage for his English estates, Penrith and Tyndale; that Henry demanded of him homage for Scotland also, and that he made answer that this affair, on which he had not consulted with his proper advisers, the notables of his realm, was too important to be discussed on a festive occasion like the present. Further, that King Henry, unwilling to disturb the harmony of the meeting, pressed the matter no further, but kept his own counsel. This is briefly told by Matthew as if it were a small matter, and his authority for it as an actual occur-

¹ Chronicles of St Albans, Rishanger, 339. It was argued from this that Wales was a fief of the English crown, a grade higher than Scotland in feudal dignity.

If King Henry's protest against the anointing was concocted with an intention to assert a claim as lord paramount over the minor king, it is significant that he made no actual attempt to assert such a position. Nothing was more firmly fixed in feudal practice at that period than that the superior held the fief during the vassal's minority. Henry never exercised this right of a superior, and in any other shape than the letter of Innocent there is no vestige of his having professed such a right. Indeed he took up a position quite inconsistent with the functions and position of a lord paramount. It fell to him, as we shall see, to interfere a good deal in the affairs of the country, and in doing so he styled himself "Principal Councillor to the illustrious King of Scotland."

rence must just go for what it is worth.¹ It may be said, however, that King Henry had far more likely opportunities for pushing the question of the feudal superiority, but that his whole line of ostensible conduct was that of one who sought to influence the Government of Scotland as the father-in-law of the boy-king, rather than of one desirous of accomplishing the subjection of the country.

Any attempt to go into the details of the manner in which the country was ruled during this king's minority must of necessity become confused, because it is filled with intrigues and counterplots and efforts of personal ambition, while neither can the actors nor the policy they pursued be brought out so distinctly as to enable us to take an interest in them. A boy on the throne, with no brother or other near heir, was a condition which naturally stimulated collateral relations to take up a position for prompt action should an opening occur. It happened that there was a cluster of such collateral relations, all ambitious Norman barons, with possessions both in England and Scotland. Their several genealogical standings will have to be noticed afterwards when their claims come up in a practical shape. Meanwhile the most powerful among them was a member of the great family of Comyn, who held many honours and large estates. Opposite to this influence stood that of Durward the Justiciar. He was married to an illegitimate daughter of Alexander II. He was accused of an intrigue of an extremely significant character in the possible fruit it might bear if successful: this was a negotiation with the Pope to legitimate his wife, and make her the next heir to the throne. That he tried to accomplish such a project will be seen more than once coming up in the disputes about the succession to the crown which became so momentous to the country. Durward's party, which was favoured by England, seized the Castle of Edinburgh, and, according to their own phraseology, "liberated" their young sovereign from subjection to the Comyns. Just after this event, in the year 1255, King Henry, who had sent emissary after emis-

¹ Edit. 1644 (by Wats), p. 555, Giles's translation, ii. 469.

sary into Scotland, thought it necessary to come himself, attended by a considerable force. He met the young king at Roxburgh, and before he turned southwards adjusted the government of Scotland to his satisfaction. The seizure of Edinburgh Castle, however, had set a precedent often followed in Scots history—that of kidnapping a monarch and ruling in his name. The party of the Comyns was strengthened by the arrival in Scotland of the king's mother with her second husband, John de Brienne, son of "the King of Jerusalem." The party were strong enough to seize the king at Kinross, and along with him they got possession of a movable, then but of recent appearance, but gradually becoming a symbol of important powers—the Great Seal of the kingdom. This was in 1257. Soon afterwards the Comyns lost their leader, the Earl of Monteith. Whether from this event or not, a regency was formed, which did not look so dangerous as to demand the interference of King Henry, who seems for some years to have let the country alone. In the year 1260, in critical domestic circumstances, the young king and queen visited the court of King Henry; and here, in the same year, a daughter was born to them, named Margaret, and destined to be an important personage in Scots history.

Three years afterwards there was a memorable invasion of Scotland by the King of Norway. It was the concluding act in the career of the Norsemen or Danes in Scotland, and affords an opportunity for resuming the history of their connection with those outlying provinces which finally became incorporated into Scotland. We have seen how the Norsemen had established a central power in Dublin, so strong that it appeared likely to become the capital of a great sea-empire in the north. We have seen that the prospect of an empire on the waters gradually faded as the descendants of those who lived and fought upon the sea peopled the British Isles and other habitable districts of the north. The chief of the "Ostmen" in the south-east of Ireland gradually merged into a dynasty of monarchs. They were called the Hy Ivar, or descendants of Ivar, carried back by the dynastic spirit

of the Irish annalists to an ancestry in "the royal race of Lochlin." The Hy Ivar had their relations from time to time with the chiefs of Scandinavian origin nearer Scotland, but all chance of a united Norse empire stronger than the power of the kingdom of Scotland was at an end. In Irish history, the supremacy of the Ostmen comes to an end in a notable historical climax. In the great battle of Clontarf in 1113, when the mighty Brian Boroom, the hero-king of the old Celtic race, was killed, his cause prevailed, and Ireland was entirely restored to the command of the native Irish sovereign, Dermot Mac Malnembo. It is a peculiarity, however, of battles in Ireland, that while in the heroic narrative of the historian they have suddenly made an empire out of chaos, there is no perceptible difference in the actual condition of the country; and the Ostmen appear to have held after the battle their old position, and to have retained it until the invasion of Ireland by men of the same race from England.¹

Coming nearer to the Scots kings' dominions, we find at the beginning of the twelfth century the great Magnus Barefoot reigning supreme in Man and the islands of the west. He was a monarch of sufficient power to hold diplomatic relations with the King of Scots, and a

¹ The most valuable commentary on the history of Ireland during this period, and on the relation of the Irish "Ostmen" to the other Scandinavian colonists in the British Isles, is in the late Dr Henthorn Todd's Introduction to 'The War of the Gaedhil with the Gaill.' His general conclusion is thus given: "The Norsemen of Ireland were not seriously affected in their position by the victory of Clontarf. They retained their hold of the great seaports, and the Irish annals for some time continue to record the usual amount of conflict between them and the native tribes. We read, however, of but few new invasions; and the design of forming in Ireland a Scandinavian kingdom, which seems to have influenced such men as Sigurd of Orkney and the Viking Brodan, was certainly abandoned. The national distinction between the Irish and the Danes, however, continued until after the Anglo-Norman invasion; the Danes then, in several places, sided with the native chieftains, but in many instances they appear to have recognised in the new-comers a common origin. In the seaport towns especially, a common interest produced alliances by which the peculiarities of the two races were at length softened down, and both were at length confounded by the Irish under the same generic name of GAILL, or foreigners."—P. cxcix.

very formidable neighbour. It is told in the Sagas that he claimed the Mull of Kintyre as one of his islands, and in a spirit of menacing jocularly had one of his vessels dragged across the isthmus of Tarbert, he sitting at the helm.¹ The inhabitants of these islands appear to have been still, and to have continued for generations afterwards, a wealthy community, like all the others that retained any remnant of the enriching influences of the sea-rovers of old.²

Magnus was afterwards killed in an effort to restore the Norse influence in Ireland. He left his son Sigurd as ruler of the Isles; but when he went to succeed his father as King of Norway the colony broke up again into separate independencies, the respective histories of which cannot be pursued to any instructive effect. There was a general division of the whole into Nordureyer or Norderies, and Sudureyer or Suderies, the northern and southern division. The dividing-line was at the Point of

¹ Munch, Chron. Man, 66.

² The following passage is from a book of small bulk, but full of learning and intelligence, the *Geographical Illustrations of Scottish History*, by David Macpherson (Isles): "Under the government of these Norwegian princes the Isles appear to have been very flourishing. They were crowded with people; the arts were cultivated, and manufactures were carried to a degree of perfection which was then thought excellence. This comparatively advanced state of society in these remote isles may be ascribed partly to the influence and instructions of the Irish clergy, who were established all over the island before the arrival of the Norwegians, and possessed as much learning as was in those ages to be found in any part of Europe, except Constantinople and Rome; and partly to the arrival of great numbers of the provincial Britons flying to them as an asylum when their country was ravaged by the Saxons, and carrying with them the remains of the science, manufactures, and wealth introduced among them by their Roman masters. Neither were the Norwegians themselves in those ages destitute of a considerable portion of learning and of skill in the useful arts, in navigation, fisheries, and manufactures; nor were they in any respect such barbarians as those who know them only by the declamations of the early English writers may be apt to suppose them. The principal source of their wealth was piracy, then esteemed an honourable profession, in the exercise of which these islanders laid all the maritime countries of the west part of Europe under heavy contributions."

of Ardnamurchan, the most westerly promontory of the mainland of Scotland, so that Iona was included in the Suderies.¹

About the close of the twelfth century, a chief or king named Somerled is found exercising a wide but undefined authority both in the Islands and that part of the western mainland which formed the territory of the ancestors of the Scots kings.² He was the husband of the daughter of Olave, who had succeeded to power as the representative of the race displaced for a time by the visitation of Magnus and the succession of his son. Of Somerled's own origin there is no distinct account. He is said to have been of Celtic family, and the power to which he raised himself is supposed to have brought the Celts of these districts under the paternal influence of rulers of their own race, by a reaction or a successful revolt against the Norse oppressors, such as that which the Irish claimed from the battle of Clontarf. For this, however, there seems to be no authority, and he was probably an able and successful Viking.³ Somerled, as we have seen, patronised the pretender to the Maarmorship of Ross, and invaded Scotland in his behalf. Through conflicts of various kinds he became to be, if not the sovereign of the

¹ Hence the English bishopric of Sodor and Man—Sodor being the southern division of the Scots Hebrides, and not then part of any English diocese. In its earlier days the bishopric would be under the primacy of Drontheim. The Bishop of Sodor and Man has no seat in the House of Lords, owing, as it is commonly said, to Man not having become an English possession when bishops began to sit as lords by tenure.

² The latest sea-fight in the old Viking spirit in the neighbourhood of the Scots coast is connected with his career. It was fought in the year 1156 with Godred, who represented the reigning authority in Man itself, while Somerled commanded in the other islands.—Chron. Man, A.D. 1156.

³ In the Sagas a "Sumarlad" is mentioned as a brother of Einar and Bruse, the two competitors for power in Orkney, mentioned above (vol. i. p. 321).—Munch, *Norske Folks Historie*, b. 649. The name occurs among the colonists of Greenland—*ibid.*, 363. It has been derived from old Norse, meaning "a summer stranger," as if it pointed to an unwelcome visitor appearing occasionally at the season most appropriate for Viking expeditions.

Isles and of Argyle, certainly the holder of the chief power over these districts. Altogether, however, both in his origin and the position he attained, he holds a shadowy place in history. The death of Somharlid, a son-in-law of King Olave of Man, is told with great distinctness. He appeared in the Firth of Clyde with a fleet of a hundred and sixty vessels, having projected the subjugation of all Scotland; but at Renfrew the divine vengeance overtook him, through the hands of a small body of men, and he was slain with a countless number of his followers; but this occurred in the year 1164, a period later than that of the shadowy Somerled of tradition.¹ His renown has come chiefly from the houses he founded. The Islands and Argyle, according to Highland story, were separated and inherited by his three sons, and afterwards subdivided among their descendants. If this be true, then the result of the ambition and ability of this chief of unknown origin was not to supersede but to break up the empire of the Norsemen. The traditions of nearly all the clans in the West Highlands and Isles carry back the ancestry of their chiefs to this mysterious Somerled.

It was only natural that as the Scots kings increased in strength they should be desirous to annex these districts. When it was maintained that the absorption of the Isles and Argyle was only the recovery of the oldest possessions of the crown, it can be said that the same excuse for aggression has been made in countless other instances, ancient and modern, with far feeble justification; for these were in reality the cradle of Scots royalty, and the eastern districts, which were the strength of the kingdom, were recent acquisitions. Accordingly, there was a pressure on the power of these western chiefs. Argyle became nominally a Scots shire, with a Sheriff representing the crown. Demands were made here and there of the chiefs to acknowledge feudal tenure on the Scots crown, and it was in an expedition to push these requisitions that Alexander II. died at Kerrera.

Of all the old Scandinavian empire near Scotland,

¹ Chron. Man, A.D. 1102-64.

commanded from the sea rather than from the land, the Orkneys and the other islands stretching northwards were the most entire remnant—the portion least likely, under existing conditions, to fall to the King of Scots. The Norse community there was still wealthy and powerful. Of the wealth of the Western Isles, then probably decaying, we have only casual vestiges; but the old Orkney Earldom has left a noble testimony to its affluence in the great cathedral of St Magnus. It is the becoming rival of the two cathedrals on the mainland of Norway, Trondheim and Stavanger. Of the earliest form of Gothic—the Norman—it is the finest specimen in Scotland, and, excepting the cathedral of Glasgow, it is the largest Gothic church in Scotland brought to completion according to its original design.

These islands were beyond the hope of the King of Scots in his efforts to press out the chiefs, either independent or holding rather of Norway than himself, who ruled so close to his dominions. It appears that he desired to adjust all questions between Norway and Scotland by diplomacy, and that two Scots ambassadors were sent to the court of King Haco. The mission ended in misunderstandings and recrimination. From the Norse side of the disputes, it is told how the Earl of Ross, and other potentates on the mainland of Scotland, had made a ferocious descent on the Isle of Skye. A climax of ferocity not uncommon among such accusations was brought to adorn this one, that it was the delight of the invaders to pick up here and there an infant on the point of a spear, and shake the shaft until the victim dropped down near to the hand, and permitted a close inspection of its dying agonies. It was reported to the court of Norway that these and other things were but the symptoms of a project in Scotland for the seizure of the Norse dominions in the British seas. Hence it appeared in what follows that King Haco was preparing rather to protect his own than to injure his neighbour.¹

Norway at last determined to put to a great issue the

¹ Munch, Chron. Man, 110.

question of keeping as dependencies all the islands and the western districts on the mainland over which Norse chiefs had held rule. In the winter of 1262, King Haco issued warrants for a conscription for this purpose over all his dominions. He was a despotic king, and well obeyed. In the summer his mighty fleet assembled at Bergen. There his son Magnus offered to command the expedition ; but the old king, though, as the chronicle says, he had reigned six-and-forty winters, would not depute so critical a command, and left his son regent of his kingdom. The fleet sailed to the Orkney Islands, where of course it was at home. Ere he left these friendly islands there came a portent that might have disturbed a less resolute leader. At Ronaldsvo there fell a great darkness, so that there was only a thin bright ring instead of the round sun. It has been calculated that there must have been an eclipse of the sun, which at twenty-four minutes past one on the 5th of August was annular at Ronaldsvo.¹

The fleet sailed on to Caithness, which was filled with Norsemen, not very tightly ruled by the Scots king, nor much devoted to him. Here there does not appear to have been any one who professed to represent the crown of Norway ; but when he passed southward among the islands, the king had to deal with persons distracted by cruel difficulties. In the first place, they aimed at a separate authority, independent of any superior. If they were to have a master, they were all too conscious of the nearness and increasing power of the King of the Scots ; but here was for the moment another master at their doors, with utterly overwhelming power at his command. Some of them had been invested with estates on the mainland. When the King of Scots had come to terms with any of them, he generally secured the fulfilment of the bargain by bringing hostages to the mainland.² Among those now secured was the King John who had held treaty with

¹ Arch. Scot., iii. 364 : the calculation was made by Sir David Brewster.

² See in Arch. Scot., iii. 367, items of account for the maintenance of these hostages.

Alexander II. According to the Norse accounts, he flatly refused to aid Haco, because he had sworn allegiance to the Scots king, of whom he held more land than of the King of Norway. Haco sailed southward by the Lewis, and at Skye was joined by his son-in-law Magnus, King of Man. In passing still southward he levied on the lords of Cantyre and Isla, who tendered him submission, a purvey of a thousand cattle; and if he received them, it is clear that these districts must have been well grazed.

In the Norwegian account of the expedition we read of many descents on the west coast by detached parties, occasionally penetrating to some distance inland. One of these was a feat so eccentric and original that it must not be passed over. A detachment or squadron of sixty ships, commanded by Magnus of Man, sailed up Loch Long. There they found that the narrow isthmus of Tarbet, quite flat, and only three miles across, separated them from Loch Lomond. They dragged some galleys over this impediment, and launched them on Loch Lomond. Along the broad eastern end of that lake stretches the district of the Lennox, one of the most fruitful in Scotland. This was fresh ground for pillage, and not likely to be guarded against marauders coming from so unlikely a direction.

The climax of the great expedition is reached when the main fleet of 160 vessels, sweeping round the Mull of Cantyre, casts anchor between Arran and the coast of Ayrshire. According to the Norwegian accounts, the Scots sent negotiators who would have been content to retain the mainland and the islands enclosed by it, Arran, Bute, and the Cumbraes, leaving the outer archipelago to Norway. The proud master of that great force, however, would give up nothing coming within his claims; and then it was observed that the Scots became shy of further treating, because winter was coming, and that a force was gradually collecting on the heights overlooking the Ayrshire coast.

That winter was propitious to Scotland. It was of the kind that at the present day would be recorded as disastrous to shipping on the western coast. Storm followed storm, breaking up the mighty fleet of Haco, by vessels

running foul of each other, or getting stranded or water-logged, or dashed against the rocky shores. One of these disasters brought a crisis. Some galleys were stranded on the coast near the village of Largs. Their crews, when they got on shore, naturally met a hostile reception. The fleet sent assistance; but as more assistance was sent, still more was needed, as the hostile Scots were increasing in numbers. At last Haco resolved to do battle, and landed a force. According to the Norse accounts, they fought gallantly, but were overwhelmed by numbers. This is probable; but at the same time there does not appear to have been what could be called an army on the Scots side. There seems to have been little more than the old gathering of the country to resist an incursion of the Northmen, though perhaps there was more to defend, and better defenders, than there might have been centuries earlier. There were, according to the Norse account, fifteen hundred mounted and mailed men-at-arms among the Scots. That any national preparation for defence had been made, however, seems improbable from all that comes to us on the Scots side. The disaster to the Norwegians, when their fate compelled them to fight on shore, appears in the Scots chronicles as the battle of Largs, fought on the 2d of October in the year 1263; and it is not wonderful that the chroniclers, writing long afterwards, exult over it as a great victory. The shattered remnant of the Norse fleet had to work round the Mull of Cantyre, and then along the west coast, still tormented and suffering losses by foul weather, until they reached the Orkneys. There old King Haco died, on the 12th of December 1263.

In death the old Norse king was true to the spirit of his race, though Christianity had released the victim of unviolent death from the dismal eternity to which the old Norse creed consigned him. When he felt the hand of sickness on him he went to the church of St Magnus, then newly built, and one of the wonders of the age, and walked round the shrine of its martyred founder. Indeed, in all things he did his best to follow the precepts of his spiritual advisers; but the legends of old battle-fields got the better of the legends of the saints. He had read to him first the

Bible, then the Lives of the Saints ; but at last he demanded to have read to him day and night, while he was awake, the chronicles of the Norwegian kings, from Haldan the Black downwards.

Throughout the information we possess of Haco's expedition, it is clear that little preparation was made by the Government to meet it. There is no notice of any muster of the crown vassals. We hear of no naval encounters, although Scotland possessed ships. It is probable that these were insufficient to operate to any good effect against the mighty sea force of Haco, and that the best to be done with them was to keep them out of danger.

Largs was indeed not a spot where a deliberate invasion of the country could well be expected, since it is extremely ill suited for troops forming in strength after landing. Elsewhere to the right and the left there might perhaps have been found navigable sea coming up at high tides to level ground ; but here there is a narrow strip, with bluffs running right up from it. Troops marching along the strip in either direction would be flanked from the higher ground for many miles ; and the alternative of passing through any of the narrow clefts which pierce the range of hills would have been still more perilous.

We hear in the earlier accounts of no commander to the Scots force, nor is it recorded that any of the great feudatories of the crown were present. This silence is made emphatic by the eminence given to the rank and splendid equipments of Sir Pierce Curry, the only man whose name can be absolutely identified on the Scots side at the battle of Largs. The force seems, indeed, to have been a miscellaneous gathering of the peasantry, and as such it affords a forecast of that armed power which the country afterwards showed itself so capable of animating into life in time of need.¹

¹ In the absence of any other detailed account of this expedition, it is necessary either to pass it rapidly by as an unexplained incident, or to found on a little book called "The Norwegian Account of Haco's Expedition against Scotland, A.D. 1263, now first published in the original Icelandic from the Flateyan and Frisian MSS., with a literal English version and notes by the Rev. James Johnston. A.M." 1782.

It was natural that an event such as the battle of Largs should in the popular chronicles of later times find a place with the ravages of the Norse invaders of four hundred years earlier. The fulness of the narrative, due to the later date of the events, only served to give emphasis and distinctness to a class of historical events too vague in the announcements of the older inroads. Here indeed was the last of the outrages from the Viking freebooters. As it was the last, so it was the greatest, and it met a fate that for ever kept the coast of Scotland safe from the inroads of the sea-robber. Many monuments on the west coast belonging to the class called Druidical seemed to commemorate the event, and suit well in their character as memorials of the burial of "the heathen Danes" who fell in their last outrage. Among these a cromlech on a rising-ground near Largs appropriately served as the monument erected over the body of King Haco, as killed in the battle.

When the elements had freed the country from its peril, the king sent a great force against the island potentates, now at his mercy. The Scots chronicles, as a supplement to the victory, tell us that severe vengeance fell on the island chiefs who had in any way countenanced the invader. Severity and cruelty were too much the order of such occasions. These chroniclers, however, writing long afterwards, required such results to supply the moral to their view of the conduct of men who are denounced by them as perfidious traitors to their king and country. To add another picturesque touch to this view, it is told how old Haco, when death approached him, believing it incumbent on him to leave behind the means of visitation on such wickedness, sent to King Alexander the letters inviting his descent, which he had received from those treasonable subjects.¹

This disaster was a blow keenly felt in Norway as a diminution of power. Three years afterwards, in 1266, Magnus IV., the new king, by formal treaty, ceded to the King of Scots Man and all the Western Isles, specially

¹ See the *Scotichronicon* and *Wyntoun*.

reserving Orkney and Shetland to the crown of Norway. On the other hand, the King of Scots, in consideration of the powers or claims ceded by the crown of Norway, agreed to pay down a ransom of a thousand marks, and an annual rent of a hundred marks. There was no stipulation for homage or any feudal ceremony on the occasion.¹ In the year 1281 a bond of amity was established between the crowns by the marriage of the Scots Princess Margaret to Eric of Norway.

There were some secondary troubles in this reign connected with the adjustment of the independent rights of the Scots Church. In the rescript already spoken of, in which Pope Innocent IV. refused to comply with the demand made on the part of England about the crowning of the King of Scots, he also declined to authorise King Henry to draw the tax on benefices in Scotland, with the remark that such a claim by one prince on the dominions of another was unknown. In 1254 Innocent IV. granted to Henry a twentieth of the benefices in Scotland on condition of his joining the crusade. The arrangements for the disposal of the money to be thus raised were so shifted and adjusted from time to time, as to show that the Court of Rome held this to be a fund entirely at its own disposal. The money, however, though it seems to have been partly collected, was not permitted to cross the border. The king and the clergy were at one on this point, and had a practical excuse for the retention by fitting out a small expedition of Scots knights, who joined the crusade, from which none of them returned.²

A taxation of Church livings involved a rating of their value: and it is found that such a rating had been made, in part at least, as early as the reign of William the Lion. When the taxation of lands comes up for consideration, there arises a natural dispute if the value of the lands has

¹ Robertson's Index to the Charters, 101.

² One of these, the Earl of Carrick, left a widow, who, by her romantic marriage with the son of Bruce, the competitor for the crown, became the mother of the great King Robert.

risen since the latest preceding valuation was applied. If there be an old recorded estimate of value, it is the interest of the payer of the tax to hold by that estimate, of the receiver to have a new survey. In 1275 there came to Scotland, commissioned from Rome, Boiamund de Vicci, commonly called Bagimond. His errand was to collect the tenths of benefices, and to have them rated according to their existing value. The Church stood tenaciously by the old practice, and prevailed on the Papal agent to return and represent their case at Rome. Whether his representations were earnest or not, they were not successful. He returned and completed his valuation. It was a permanent record, known as Bagimond's Roll, and was the foundation of ecclesiastical taxation down to the Reformation. It has been remarked that, whether from imperfect collection or some other cause, the Court of Rome profited little by the new valuation, and that it made but a trifling addition to the amount that would have been collected under the old practice. The subsequent history of Bagimond's Roll is as instructive as its precedents on the distaste of a progressive country for new valuations. After a time, the demand ever was to tax upon the valuation in Bagimond's Roll—not the existing value; and thus, centuries after the time when it had been resisted, both as a heavy tax and a badge of subjection to Rome, it was cherished as a vested privilege of the Church in Scotland.¹

There were other ecclesiastical difficulties, but they were not of magnitude, and ended well for the indepen-

¹ A valuable inquiry into the question how far we have existing evidence for the contents of this roll, along with an inquiry into the amount first realised under it, will be found in the preface to the *Statuta Ecclesiæ Scoticanæ*, p. lxx. *et seq.* "The whole amount received in the three years beginning with the Feast of the Nativity of St John the Baptist, 1274, was £7195 sterling, or, on an average, £2035 a-year. This would not represent a yearly value of more than £20,350, being an increase of only £1688 on the yearly value, shown by the *Antiqua Taxatio*." See also *Origines Parochiales*, pref. xxxiv.

"Boiamund died before the collection of the tax was completed. The gathering in of the arrears was intrusted to certain merchants of Florence, Sienna, and Lucca."—*Ibid.*

dence of the Scots Church. The Papal legate, Othobon Fiesci, proposed in 1267 to pass from England into Scotland, and there hold an ecclesiastical council. He was not admitted into Scotland, apparently because he had been accredited as legate only to England. He then demanded that the Scots bishops, along with representatives of the lesser clergy, should meet him in a council to be held in England. Two bishops and two heads of religious houses were sent on the occasion; but it was not, as we are told, for the purpose of holding a council, but of protesting against any acts prejudicial to the Church of Scotland which might be done by any council assembled in England. Meanwhile the Church had been consolidating itself as a special institution, belonging to Scotland as a separate state. Several national councils—provincial councils, as they were called in the nomenclature of the Court of Rome—were assembled. It was represented to the Papal Court that such provincial councils were necessary for the due observance of the laws and injunctions of councils-general, especially in so remote a district as Scotland. It had become a rule of the Church that metropolitans presiding over ecclesiastical provinces were annually to hold provincial councils for the enforcement of the laws of the Church, the reformation of manners, and the other functions proper to such bodies. Scotland had as yet no metropolitan. It is likely enough that there was hesitation as between either of two strong measures—conceding the English supremacy, or making one of the Scots bishops supreme by the established form of sending a pallium to him. At all events, the course taken was of a middle kind. In the year 1225 a bull was issued, authorising the Scots Church to assemble in council without special Papal authority, or the presence of a legate. At the assemblies so held, a code of laws or ecclesiastical canons was adopted. It contains fifty-nine statutes or short chapters, of which it may be said that they do not so far depart from the ordinary institutions and practice of other Churches as to afford those marked peculiarities which give a distinctive character, and a sort of picturesqueness, to the ways of the Church

of Scotland in earlier ages. They are, in great measure, adaptations from the English ecclesiastical laws. So much about the date of this code is known that in its complete form it cannot be so old as the year 1237, yet must have been in existence before the year 1286.¹

Few states could, in that age, look forward to a more serene and prosperous future than Scotland after the battle of Largs. A son was born to the king—the chroniclers have it that he was told this on the day when he got news of Haco's death. Ere he was yet forty-four years old, with two children and a grandchild, he gave a tolerable promise of undisputed succession. A dangerous enemy was humbled and thrown to a distance, and the English claims seemed a vision of the past. The fate of nations, as we have seen, had come to depend, more than of old, on genealogical conditions, which dictated the succession to royal houses, insomuch that the events which plunge a family in grief might also be a real calamity to a people. A succession of such calamities followed close on each other. In preparation for them we may count the death of Henry III. in 1272 as a calamity, in that it bequeathed the opportunities offered by the others to a spirit so capable, vigilant, and remorseless as that of Edward I. King Alexander, who was of like age with his brother-in-law, got over successfully any difficulties about homage at the coronation, exempting his right as a free sovereign from his obligations, and all went smoothly for ten years;—so at least it appeared upon the face of history. Nothing comes up in the course of public known events to disturb or alarm Scotland about the designs of the English king; but there is a small entry in the English records in the Tower which afterwards did disturb the champions of national independence, and create hot discussion in the great literary war about the homage question. There is a transcript of a Close Roll of the sixth of Edward I. (1278),

¹ Preface to *Statuta Generalia*, liv. This code, which first appeared in the *Concilia* of Wilkins, to whom it was supplied by Ruddiman, was reprinted by Lord Hailes in the third volume of his *Annals*. The authoritative version will now be that of Robertson's *Statuta*.

recording that the King of Scots came to Westminster to proffer his homage. We are thus prepared for the method of the homage, limited or unlimited, and are told that it was complete and comprehensive.¹ It could only be said that this was the English version of the affair, which could not be justly pleaded to the prejudice of Scotland. A zealous Scot, however, determined to see with his own eyes if it were so written in the bond, found that the passage had been inserted on an erasure. It was thus evident that the roll originally contained something which it was desirable to replace with something else.²

It happens that a scribe of one of the oldest of the Scots monasteries, as if to guard against any such treachery, kept a note of the precise form of the ceremony of homage and of its conditions. These, according to his sense of them, were very emphatic:—

“In the year of God 1278, on the day of the Apostles St Simeon and St Jude, at Westminster, Alexander, King of Scots, did homage to Edward, King of England, in these words: ‘I become your man for the lands which I hold of you in the kingdom of England, for which I owe you homage, saving my kingdom.’ Then said the Bishop of Norwich, ‘And saving to the King of England, if he right have, to your homage for your kingdom;’ to whom the king immediately answered, saying aloud, ‘To homage for my kingdom of Scotland no one has any right but God alone, nor do I hold it of any, but of God.’”³

While such weapons of contest were preparing in the recesses of cloisters and record-houses, troubles more palpable and public were at hand.

In 1283 came the news that the king’s daughter, Mar-

¹ “Et illud ei fecit in hæc verba: ‘Ego, Alexander, Rex Scottorum, devenio ligius homo domini Edwardi, Regis Anglorum, contra omnes gentes.’ Et idem Rex Angliæ homagium ejusdem Regis Scotiæ recepit.”

² Allen’s Vindication, 87.

³ “Cui rex statim respondit aperte dicens, ‘Ad homagium regni mei Scociæ nullus jus habet nisi solus Dominus; nec illud teneo nisi de solo Domino.’”—“De homagio quod fecit Alexander Tercius, Rex Scociæ, Edwardo, Regni Angliæ, pro terris suis quas habuit in regno Angliæ;” Register of Dunfermline, 217.

garet, Queen of Norway, had died, leaving a newly-born daughter. Within a few months the king's son, Alexander, married to Margaret, daughter of the Earl of Flanders, died also.

Here at once the country was in a sea of difficulties. We have seen that in England, rather more than a century earlier, the law of succession had not become so exact as to fix whether an heiress should succeed to the crown or should be absolutely excluded. Such a question was a like novel criterion of the rule of succession in Scotland. Had there been so near a relation as an uncle—a brother of the late king—to rest upon, there is little doubt that he would have succeeded Alexander. It was known that there were several expectants of the succession, but they were all distant collaterals. What was far more serious, however, they were all Norman barons, with possessions in England as well as Scotland. There was no doubt, although Norman names are then so conspicuous in great state transactions in Scotland, that there was a strong middle class, backed by a peasant and burgher class, who disliked the Norman intruders, and felt a horror of any subjection to a Norman government such as England had now been suffering under for two hundred years. To them it appeared that Scotsmen were drifting towards such a fate, with nothing at present existing but the frail child away in Norway to protect them. Whether it should be the English king himself, or one of those Norman magnates surrounding his throne, that was to rule, would make little matter; it would still be Norman rule.

Impelled by such a prospect, there was a determination at once to render the succession of the child as secure as it could be made. The Estates met at Scone so quickly after the news of the prince's death, that their resolution was made contingent on a posthumous child being born by his widow. Saving such an event as the king having children, it was resolved that the crown should go to the Princess of Norway.

Soon afterwards, in 1285, the king married Joleta, the daughter of the Count of Dreux. It happened that within a few months afterwards, the 12th of March 1286, he

chose to ride in the dark along the coast of Fife opposite to Edinburgh. Near the present burgh of Kinghorn he had to pass over a rugged promontory of basaltic trap. He was pitched from his horse over one of these rocks and killed. Such was the final calamity, opening one of the most gloomy chapters in the history of nations.

Within a month the Estates had met at Scone and appointed a regency to govern the kingdom in the absence of its queen. The formation of this body kept up the peculiarity that the country was divided into two communities by the Forth. Three guardians were appointed for the southern district, the old Roman province, and three for the northern, the Scotland that a century earlier had been bounded by the Forth as the Scots water. Each set consisted of a bishop and two barons. Of the northern guardians the Earl of Fife was murdered and the Earl of Buchan died, so that as ruler of that district there remained the bishop only, Fraser of St Andrews.

There was now much stir among the collaterals. The nearest male relation of Alexander was Robert Bruce, the grandson of Earl David. It has been seen that, more than forty years before, Alexander II. had arranged that if he died childless Bruce should succeed to the crown. He was then the only male representative of William the Lion's brother, Earl David; but there were now other male descendants, and even in the imperfectly-formed genealogical notions of the day that altered materially the power of his claims. Still he was in a position to indulge in high hopes, and showed a disposition to realise them if he could. He assembled his retainers and took an attitude of such decided menace that in the subsequent competition for the crown he was charged with rebellion against his queen by marching against her fortresses with banner displayed, and especially by assailing and seizing her castle of Dumfries.¹

¹ In Baliol's pleading of his cause before King Edward, of which hereafter, it is set forth that Bruce and his son, the Earl of Carrick, attacked the castle of Dumfries with banner displayed, and drove out the garrison. The record is imperfect, but it charges him with taking

He indulged in the hope that King Edward would even now, and while the young queen lived, help him to the throne. There is extant a document in which he threatens the guardians that in case they should choose John Baliol to be king, as he hears they intend, he shall put himself into the hands of the King of England. His threat is backed by seven earls, and supported, according to his assertion, by a body of the community. This curious document is silent on two points. It says nothing about the existence of the child who was held to be the Queen of Scotland, and it says nothing about a right of superiority over Scotland in the monarch to whom he threatens to appeal for the enforcement of his rights. He was King Edward's subject; and, denied his rights elsewhere, he would throw himself on his lord and master for aid and protection. But there is something in the tone of the threat to show that, if he must take assistance from such a quarter, he was likely to hold Scotland of the master who would give it to him.¹ Bruce was, however, suddenly

liberties with another royal castle. Its name cannot be read, but Sir Francis Palgrave thus renders the incident: "He then caused a proclamation to be made by one Patrick M'Guffok within the bailey of the same castle. The tenor or subject of this proclamation cannot be precisely collated."—Documents illustrating the Hist. of Scot., 42; *Introd.*, lxxx.

¹ All that we know about this threat is scattered through the provokingly fragmentary morsels from some parchments in the English Treasury, which have been preserved and printed by Sir Francis Palgrave in his volume of Documents and Records illustrating the History of Scotland. Probably the accuracy of the transcripts given by Sir Francis will never be tested by comparison with the original fragments, nor need it. The devotion of this zealous antiquary for the purity of texts was so ardent, and his skill in deciphering was so great, that any one going over the originals, and taking a different reading of any passage, would at once admit himself in error and accept of the reading printed by Sir Francis, both in the parts where he is able sometimes to give a sentence nearly or actually complete, and in those where he can only make out a few fragments of words. There is not, however, the same implicit reliance when Sir Francis draws large conclusions from his painfully-deciphered fragments. Because Robert de Bruce threatened, or appears to have threatened, the guardians with the interference of his lord King Edward, one is not disposed to consider this as evidence of a complete understanding among all concerned that King Edward was Lord Superior of Scotland. The terms

silenced—so suddenly that the chronicles give but a faint echo of his having stirred at all. We must suppose, therefore, that he got some significant hint from that master of whom he held such solid estates as might well outvalue a shadowy crown.

used, so far as the fragments retain them, are quite different from those which Robert Bruce used afterwards when he pleaded his claim before Edward, and called him Lord Superior of Scotland at every turn. The strongest terms he uses in his threat announce his determination to stand "*protectione et defensione predicti domini Regis Angliæ et corona sua regia*;" but in his subsequent pleading for the crown the phraseology is "*coram præfato domino nostro Rege, tanquam coram superiore seu directo Domino Regni Scotiæ.*" The pleadings, of which some account will come in the right place, are rife with such expressions, but it would not have been safe to employ them in Scotland even when Sir Robert was threatening the guardians. In fact, so far as a tone can be taken from the incoherent morsels of his threat, he seems to have come forth in a form familiar enough in smaller affairs—that of the dependant of a man of power bullying persons humble but independent, and threatening to bring his master down upon them. Mr Carlyle would find here a thorough specimen of that psychological phenomenon which in his technical nomenclature is known by the term "*flunkeyism.*" People are not accustomed to associate such characteristics with the name of Bruce; and as we shall meet this member of the family again, it may be as well to keep distinctly in the mind that it was not he, but his grandson, who was the hero of Bannockburn.

The fragments found by Sir Francis in the Treasury were not only satisfactorily conclusive to him in the matter of the supremacy of England, but convinced him that there existed in Scotland a remarkable constitutional body—a board, as we would call it at the present day—consisting of Seven Earls, who, among their other functions, had the settling of the succession to the crown in all cases of difficulty.

In fact, the editor's comments on the valuable documents which he had the merit of finding and preserving, exemplify a frailty to which the skilful archæologists who deal much in manuscript authorities are liable. They are apt to give undue importance to the weight of any new matter they have been so fortunate as to discover, and so to contort the features of history. The greater and the more valuable part of the materials of history has been no doubt brought into existence by those who have gone to such sources, yet at any one point the matter specially known to some skilful decipherer is but small in comparison with what is in print, and known to all who care to seek for it.

Though it is vain work to look for something like a board of control or an electoral college so constituted, yet a reference to seven earls is

Looking back upon this crisis through the light of events happening a few years afterwards, we find a very noticeable blank, though the Estates and others concerned in Scotland were probably unconscious of it. Here again the succession to the crown of Scotland opened to a minor; and if the King of England had been, as soon afterwards he said he was, the Lord Paramount of Scotland as a fief of the English crown, it was not only his right, but his feudal duty, to take on himself the management of the affairs of the fief. Further, it evidently should have been a serious matter for his consideration whether it was to be admitted that Scotland was so exceptional among sovereign fiefs as to be descendible to an heir-female. The lord superior had great interests at stake, and everything to say in such a matter. A superior with an heiress-vassal to

common in old records, and provocative of curiosity. In a document in the chartulary of Dunfermline, a certain act of feudal investiture is referred to, and its date is identified by the day on which St Margaret's remains were removed to the high altar of Dunfermline (see vol. i. p. 381). To mark the event of removal, it is said to have been made in the presence of King Alexander III., seven bishops, and seven earls of Scotland—"septem episcoporum et septem comitum Scotiæ" (Register of Dunfermline, 235). In one of the chronicles, an attack on Carlisle by the Scots in 1296, to be afterwards mentioned, is said to have been made under the leadership of seven earls whose earldoms are given—Buchan, Monteith, Strathearn, Lennox, Athole, Mar, and Badenoch. "Quo tempore septem comites Scotiæ, videlicet de Bowan, de Moneteth, de Stradeherne, de Lewenes, de Ros, de Athel, de Mar, ac Johannes filius Johannis Comyn de Badenan, collecto exercitu."—St Alban's Chronicles, Rishanger, 156. Seven earls of Scotland were said to have been slain at the battle of Neville's Cross. Mr E. W. Robertson, in his *Scotland under the Early Kings*, has commented in his usual impartial spirit on Palgrave's discovery, and notices the old reference in the tract *De Situ Albanie* to the tradition about the seven provinces of Pictland (ii. 504). The mystery will probably be solved some day, and found to be very simple. Other parts of the world have been vexed by this "mystic number seven," as it is termed. The Saxon kingdoms were still called a Heptarchy when it is certain that seven was not their number. But everything in Britain must yield to the scale on which the mystic figure worked in Ireland. We are told how "the fact that Aengus was able to enumerate 141 places in Ireland where there were or had been *seven* contemporary bishops, seems to indicate the existence of an institution founded upon the mystical *seven* of the Apocalypse."—Todd's *St Patrick*, 35.

dispose of, had gained a prize in the feudal lottery which no ordinary man would neglect. A monarch who afterwards, as we shall see, was so punctilious in giving due weight to all rules of law and personal rights, might have been expected to look to all these things. It was not his policy, however, at that point of time, to proclaim himself the Lord Superior of Scotland, and none of the diplomatic documents to which he was a party give a hint of such a claim, though afterwards his scribes were careful to make frequent repetition of his title of Lord Superior in all documents which concerned Scotland. His designs were of a kind which required accomplices to complete them, and he waited until events gave him accomplices.

His first policy, however, rested on conditions fundamentally different from those with which he ultimately had to deal. He had then a secret intention divulged no further than was absolutely necessary for accomplishing the first steps towards it. He had, in fact, obtained a dispensation from the Pope to enable his son Edward to marry the infant Queen of Scots—they were cousins-german, and so within the prohibited degrees by the canon law.

So stood matters when King Eric sent to England certain commissioners or ambassadors. What urged him immediately to this step, or what he expected to gain by it, it is not easy to see, but it became the function of these representatives to look after the interests of the young queen. Edward asked the Scots regency to send commissioners to meet them. Four were appointed—the Bishops of St Andrews and Glasgow, with Bruce and Comyn. They had powers to treat, which excluded all acts prejudicial to the nationality and public interest of Scotland. Commissioners were appointed by King Edward, and the three commissions met at Salisbury. It was a vague conference. If the great secret of the designed marriage with the Prince of England was known to those present, no discussion on it appeared in their proceedings. It was promised for Norway either to send the young queen to Scotland, or to send her to England free of matrimonial engagements. For England something was said about the necessity for establishing good order in Scotland, and that

being accomplished, the young queen, if in English hands, should be transferred free to Scotland; but there was a condition of some significance, that security should be given that she would not be bestowed in marriage except by Edward's advice, and with the consent of King Eric, her father. The Scots promised the establishment of good order, and offered to remove any of the guardians who might be obnoxious to King Eric.

It seems to have been immediately after this meeting that the Scots heard of Edward's intention about the marriage, and it was discussed at a meeting of the Estates. Edward was besought by them to tell if this were true, in a shape which showed that they caught eagerly at the proposal; and with like eagerness they urged King Eric to send over their young queen. Edward must have admitted his project, for we find him assuring the Scots that he could use influence to make Eric send over the child, and he was urged to use that influence, since it appeared that her father was reluctant to part with her. It is clear that, whether wisely or not, the Estates thought that the chances for Scotland were better in a marriage of their queen with the King of England than might be, than in leaving the throne to encounter the dangers then in prospect.

Meanwhile they did their best for the protection of the country by a solemn treaty. It was accepted by the clergy, nobility, and whole community of Scotland, assembled at Brigham, near Berwick, on the 18th of July 1290. It provided that the rights, laws, and liberties of Scotland should continue entire and unviolated; the kingdom of Scotland was to remain separate from England, divided by its proper marches; no crown vassal should be bound to go beyond the boundaries of Scotland to do homage to a sovereign residing within England, but when necessary a commissioner should be appointed to receive the homage within Scotland; no native of Scotland was to answer beyond the marches in a civil cause, or for a crime committed by him in Scotland; no parliament was to be held outside the boundaries of Scotland to discuss matters respecting the kingdom; and lastly, among matters dealing

more with mere detail, one touched an important point. Care was taken that there should be an entirely national Great Seal, always to be held by a native of Scotland. There were stipulations of a general tenor, reserving all rights existing in the King of England or others as to the marches or elsewhere, and some have thought that these conditions virtually neutralised the whole. They would have gone for nothing, however, in any interpretation of the treaty, and its specific conditions were as strong a protection to the nationality of Scotland as parchment could create. King Edward himself afterwards certified in the strongest way its efficiency as a treaty, by requiring that Baliol, on obtaining the crown of Scotland at his hands, should cancel the treaty of Brigham.

King Edward's first act after the acceptance of the treaty must have startled the Estates. He sent Anthony Beck, the warlike Bishop of Durham, to act, in concert with the guardians of Scotland, and with the advice of the Estates, as lieutenant for Queen Margaret and her husband,—and this in order that he might be able to keep the oath he had taken to maintain the laws of Scotland. He next demanded the possession of royal strongholds in Scotland, on account of some suspicious rumours that had reached him. It is open to any one to maintain, and but for Edward's subsequent career it might have been plausibly maintained, that he was here influenced by a determination to protect the kingdom against the pretenders to the throne.

There was at that time written to King Edward a letter by the Bishop of St Andrews, which became memorable, and has to be referred to further on. The letter expressed gratitude for a message brought from King Edward, whence it is to be inferred that the king took graciously the refusal to give up the castles. The satisfaction from this petty success was, however, clouded by the rumour of an event likely to overwhelm this practical difficulty, and all others of its kind, in far more momentous issues. The rumour was confirmed, and it became known that the young queen—the Maid of Norway, as she was called—had died at Orkney, on her way to Scotland.

CHAPTER XVI.

PROGRESS OF THE NATION TO THE WAR OF
INDEPENDENCE.

TOPOGRAPHY—BOUNDARIES OF THE COUNTRY—THE PROVINCES—CAPITAL TOWNS—MINOR TERRITORIAL DIVISIONS—SHERIFFS—THANES—MAARMORS—PROGRESS OF FEUDALISM—OLDER LAWS FOUND IN OPERATION WHEN FEUDALISM BEGAN—THE FICTITIOUS CODES OF OLD LAWS—THE REGIAM MAJESTATEM—CRITICAL LITERATURE ABOUT IT AND OTHER EARLY LAWS—ACTUAL VESTIGES OF THE OLD LAWS—LOCAL CODES, LOTHIAN, GALLOWAY, ETC.—PECUNIARY MULCTS FOR OFFENCES—MONEY VALUE OF THE CITIZEN—COMPARISON WITH THE SPIRIT OF THE ROMAN JURISPRUDENCE—INFLUENCE OF THE SPIRIT OF NEIGHBOURLINESS AND COMMON RESPONSIBILITY—SPIRIT OF FAIRNESS AND HUMANITY—SPECIMENS OF ANCIENT LAWS—ORDEALS—BATTLE—RISE AND INFLUENCE OF MUNICIPALITIES—PROTECTION TO LIBERTY—NO MAGNA CHARTA, OR CHARTERS OF THE FOREST—SUCH PROTECTIVE CONCESSIONS NOT REQUIRED.

We have now reached a critical period—it might be called *the* critical period—of our history. For some time to come every year has its own trouble in danger and contest; and when these years of trouble are over, the community emerging from them is different in many essential elements from the community upon whom they opened. The opportunity, therefore, seems suitable for casting a glance at the condition, so far as we can make it out, in which this period of difficulty found the country.

The history of the contests in the outlying districts has shown the difficulties which the authority of the King of Scots had in extending to certain territories in the north and the west, which, in the end, came under his rule. We

have seen how the term Scots was first applicable only to natives of Ireland; how it crossed the Channel, and included the descendants of those Irish who had settled in Argyle; and how, at last, the monarch ruling from the Tweed and the Solway northward was named the "King of the Scots." Still that was a colloquial expression, such as we use when we design the United Kingdom of Great Britain and Ireland by the word Britain, or England. The King of the Scots, when he issued his charters as a notification to all classes among whom he held rule, called them Francs and Angles, Scots and Galwegians. The Francs were the Norman settlers, and had become so numerous as to be a great element in the population. The Angles were the refugee families who had fled from Norman tyranny in England, and perhaps the whole population of the Lothians was so called. The term Scotia or Scotland at this time meant the country north of the Forth. This river, with its Firth, was called "the Scots Water," and Lothian and Galloway were as yet countries only united with Scotland under the same crown. Thus, among the earliest of the public laws—those attributed to William the Lion—there is a regulation by which an inhabitant of Scotland, making a seizure or distraint beyond—that is, south of—the Forth, must bring it under the notice of the sheriff of Stirling—spoken of sometimes as a town on the border of Scotland—and convey it to Haddington, where it may be redeemed.¹

By the same old law, certain places are appointed in Scotia to which all legal writs should be returned, and these may be counted, so far as a declaration or regulation could make them, the local Capitals of their respective districts. They were—for Gowrie, at Scone; for the Stormonth, at Cluny; and for Strathearn, at Kyntinloch, now identified with the village of Kintillo on the river Earn, three miles from its junction with the Tay.² All these

¹ "Nemo de Scocia debet accipere namum ultra aquam de Forth nisi prius ostenditur vicecomiti de Strivelin."—Assisæ Regis Willelmi, xxvii.

² Kyntinloch was supposed to have stood where Perth now is. The

districts were in Perthshire, and showed that there the centre of Scotland proper stood. For the district of Athole, the central station was at Rait, now Logierait, in Perthshire; for Fife, at Dalgynch, supposed to be Markinch; for Angus, at Forfar; for the Mearns, at Dunnottar; for Mar and Buchan, at Aberdeen; and for Ross and Moray, at Inverness.¹

We find no decided tendency in any town or fortress to aggregate to itself the conditions of a national capital. The King of the Picts was said to have had his capital successively at Inverness, at Fort-Teviot, a few miles south of Perth, and at Abernethy, on the south bank of the Tay. The King of the Scots, while he ruled only in the west, is said to have held court at Innerluchty, or, as it is now called, Fort-William; while the King of Strathclyde had his at Alcuin or Dumbarton. But these are capitals only in the magniloquent language of the chroniclers, which will accept of nothing less than an empire with all its parts complete, though dealing with a community which is but faintly articulated out of the general chaos. That the rulers of the districts occasionally frequented such places, is all that can be authenticated towards making them capitals.

As the state broadens and consolidates, these annalists are less apt to find a capital for it, because more is known of its actual internal organisation. Scone at Perth, where

identity of the place with Kintillo was suggested to me by more than one friendly correspondent. This village is interesting and peculiar, as still bearing marks of old importance. Instead of the usual Scots midland village, with its sordid cottages, slated or thatched, it is a short street of houses, considerable in size, generally with railed-off gardens or shrubberies. It is very like the old suburbs of villas that grew a few years after the union of the crown, when the fear of invasion from England no longer kept the affluent citizens within the walls. It is so often seen as to become almost a law, that when no serious disturbing element breaks in, the several buildings of a cluster are renewed from time to time on the old ground-plan. Hence it is likely that the present houses of Kintillo, though probably none of them is above two centuries old, carry down to us the aspect of a place of ancient importance.

¹ *Assisæ Regis Willelmi*, xiv.

the Stone of Destiny was kept and there was a favourite royal residence, bade fair to become the centre of government; but in wealth and importance it was exceeded by Berwick. Dunfermline was a favourite royal residence; and we find the king issuing his writs from Edinburgh and Roxburgh, and successively from various other places in which he sojourned for the time.

We shall have to deal farther on with the burghal communities, and the influence of their trade and special privileges in creating towns. We have seen something of the local divisions into dioceses and parishes, created by the progress of ecclesiastical organisation. There was another great local division, for purely civil purposes, into Counties, Shires, or Sherifffdoms. In England, the distinct partition between the several Anglo-Saxon kingdoms drew several strong lines of demarcation, which served as boundaries to counties. In Scotland, the counties, as they exist, became gradually marked off or articulated, through that aggregating force in the growth of feudal crowns already alluded to, which took shape in converting independent local potentates into representatives of the crown, or in setting down such representatives to exercise a joint authority with them. This was met by a counter-force equally feudal in its nature, by which the office of representative of the crown had a perpetual tendency to become hereditary, and so all but independent of central authority. The contest of these two forces makes great confusion in the early growth of sherifffdoms, which becomes mixed up with that of the feudal nobility. We have Thanes, Earls, and Counts—all terms in some measure synonymous with Sheriff, and all on occasion nominated by the crown; yet afterwards comes, as a new missionary to give effect to the royal authority, this same Sheriff or Shire-graff.

There came, however, to be this much of distinction between the sheriff and the other local dignitaries, that the sheriff, whether hereditary or not, was nominally the servant of the sovereign, and that all his official acts as sheriff were, or ought to be, for the benefit of the crown and the furtherance of government business. Further, while the territories over which the other local dignitaries

exercised authority depended on the extent of their own feudal rights of property or superiority, the sheriff's authority came to be determined by a fixed arbitrary limit—the boundaries of the Shire or County.

But even to this, as a general rule, there were exceptions; for special rights of sheriffdom over detached pieces of territory were conferred on families of powerful local influence. Others held Baronies, which conferred the right of holding courts of justice, with certain limited powers; or Regalities, which conveyed a like right with much higher powers. Taking in at a general glance the writs in which such judicial powers are dispersed among the leading families all over the country, a natural first impression is that the crown had profusely alienated to subjects the power and responsibility of administering justice. But in reality the process was ruled by another of the specialities of the growth of the feudal monarchy already referred to. The sovereign could not well help doing as he did, and the act conveying the power virtually restrained it within certain limits. The central power of the government was not yet strong enough to supersede that of the local magnates, and the crown conceding certain powers, which these consented to receive in full of all demands, was a virtual compromise.

It is scarcely more than putting in another form this estimate of the limited power of the crown to say, that there was not sufficient central machinery to transact the judicial business of the nation. The Chancellor does not appear to have yet become a judge. We hear of the Justiciars or Chief Justices—one, at least, for the territory north of the Forth, another for Lothian. The king sitting in the sort of supreme council, which we shall presently have to look at, did justice, but in great questions only. Among the fragments of King David's ordinances, one prohibits any of the lieges from bringing his plea before the king himself, unless he has first brought it before his lord, or the sheriff, or bailies having jurisdiction in the place; unless it be one of the great pleas of the crown.¹

¹ Assisæ Regis Davidis, c. 24; A. P. i. 10.

Hence out of necessary conditions arose what appeared to be a profuse and reckless distribution of local powers. Their utmost stretch was expressed when it was said that a hereditary jurisdiction extended to "pit and gallows." The one term probably expressed distinctly enough the character of the prison kept by the feudal lord, the other needs no explanation. In after-times, as the power of the crown enlarged, the tendency of the central government was to treat these seignorial powers as abuses, and to check or neutralise them when they could not be eradicated; but they had grown with the power of the crown itself, and became nearly as tough and indestructible.

Such seignorial rights were in many instances conferred on churchmen, as attached to bishoprics and to abbeys, or other monastic houses for the government of the domains attached to them; and here a balance was perhaps in some measure established against the pressure of the hereditary jurisdictions, the influence of which was met in another direction by that of the burghal communities.

The present is not a proper place for an elucidation of the minute particulars of this intricate articulation of powers and dignities, even if there were the means of accomplishing that task with precision. It must suffice to mention another and peculiar element which remained for some time after this period among the seignorial institutions of Scotland, that of Thanage. This is a well-known old Saxon institution, but better known than loved by all readers of Saxon history, from the intricacy and confusion besetting all attempts to define its nature. It was swept away before the strict Norman feudality of the Conquest, but it subsisted long afterwards in Scotland; and as the Scots thane was the contemporary of thoroughly feudal institutions, his nature and functions came to differ from those of the extinct Saxon institution, and thus added a new difficulty to the task of any one who might attempt to explain the dignities, powers, and duties of "a thane." The institution was special to the northern districts. We have seen how, in the north, a Maarmor appears to have struggled with the King of Scots for

an independent authority. In these districts there are found, as history dawns on them, chiefs of lower grade having the title of Toshachs. The Maarmor and these seem in some way, through the pressure of the crown, to have resolved themselves into an Earl of Ross, and certain thanes whose authority and rank were inferior to his. The earl, of course, had his title from the crown, and the thanes also were crown dignitaries — nay, it has been thought that, like the sheriffs, they were servants of the crown appointed to see after the feudal taxes and other crown interests in their respective districts. But supposing all this to be fully established, there is a mystery about these Scots thanedoms uncleared. The title being an innovation supplanting that of older local authorities, it is naturally supposed to have come from England with other southern usages when Queen Margaret and her followers flocked to the court of King Malcolm. Yet it is not in the southern districts frequented by these strangers, but far to the north and beyond the Grampians, that the institution is found in its vigour; and it is hardly a satisfactory reason for this to say that the strangers who flocked into Scotland were partly Norman and partly Saxon, and that the Norman institutions naturally established themselves in the south, and the Saxon in the north.¹

¹ “Rarely met with in the south, thanedoms are found mostly in Angus and Mearns and the northern shires down to the Moray Firth. We must not expect to find them in the fertile plains of the Lowlands, which were speedily and entirely occupied by the southern settlers, become feudal Barons; nor yet in the inner fastnesses of the mountains, where the Celtic institutions, unmodified, excluded the Saxon title or office. But along the borders that separated the races, along the southern foot of the Grampian hills, through the braes of Angus and Mearns, in the hilly skirts of Aberdeen and Banff, where the sovereign had established his dominion, imperfectly it may be, but had not driven out the native people, we find numerous thanes and lands held in thanage. In the narrow country between Findhorn and the Nairn we have four, some of them of very limited extent,—Dyke, Brodie, Moyness, and Cawdor. Archibald Earl of Douglas granted to his brother-german James of Douglas, the barony of Petyon, the third of Doufhouis and Awasschir, and all the lands lying within the *Thaynedomeis* in the lordship of Kylmalaman (*Kilmalemak*) in the

Enough has been said, perhaps, to prepare us for viewing the Scotland of the latter part of the thirteenth century as a thoroughly feudal state; at all events, through all its authorised channels of announcement committed to the records, and so brought down to our present notice, the whole constitution was feudal. Customs antagonistic to feudality no doubt prevailed in the districts of the north, and in those chiefly inhabited by Celts. These customs were so tenacious as to have been troublesome within the memory of persons still living. But they had no place in acknowledged law or record; and if they showed themselves in action, and so disturbed the feudal harmony of the predominant system, history took no further notice of such collisions than to drop some judicious remarks about the suppression of insurrection and turbulence, and the firm assertion of the powers of the law.

Of the feudal system thus prevalent we can expect no account in any edict or code by which it was adopted. It had its commencement not in precept but in practice, and grew by degrees. The very supposition of its having been promulgated by any supreme power is illogical, since it created in its own growth the whole power of the state, from the king downwards. It would be interesting, if it were possible, to examine how it gradually superseded old forms of administration, whether Celtic or Norse; but though we might follow the advance of feudalism over the country with some approach to accuracy, what it displaced has left but faint and indistinct traces. In what may be called the Public Institutions we have scarcely a trace of anything Celtic. It is usually supposed that the reign of Malcolm and Margaret was the turning-point at which the court which had been Celtic became a Saxon

sheriffdom of Elgin; confirmed by crown charter of James I. *a. r.* 21-1426. We meet with at least fifty thanedoms named in Scotch charters."—Innes's Sketches, 397, 398.

Here, and in Mr E. W. Robertson's Scotland under the Early Kings, App. N, will be found all the available learning on this troublesome point.

court, with a dash of the Norman to adorn it; but of this we cannot be sure.¹

Though we must look to the records of actual transactions to find the establishment of feudalism as the radical constitution of the state, it does not follow that we are not to possess an ancient code of laws for the regulation of private rights and obligations—for the adjustment of the domestic relations, the enforcement of contracts, the suppression of crime, and the like. The possession of some such ancient code has been the boast of nations from time immemorial—a boast for which they have often been indebted to the indolence of historians. There are difficulties, often ending in utter disappointment, in tracing consuetudinary laws to their origin; but once find that a Plato or Lycurgus made them—all at once there is trouble saved, the investigator is able to parade a great and picturesque historical character, and the reader has the whole affair simplified to his hand. Hence the long lists of institutions credited collectively to a Charlemagne or an Alfred. Wales had its code of laws bequeathed by the celebrated Howel Dha, and Scotland was not behind her neighbours in such pretensions; she long boasted of the collection called the *Regiam Majestatem*, a full and carefully-matured code of laws adapted to the purposes of a great and civilised state. It was the fruit of the skill and learning of the Scots lawyers of the twelfth century, stimulated by the enlightened policy of King David—hence called the Scots Justinian. In the year 1425 this collection is referred to in one of the statutes of King James I., in which a commission is appointed “to examine the buiks of the laws of this realm—that is to say, the *Regiam Majestatem* and the *Quonium Attachamenta*—and amend the laws that needs amendment.”² With the exception of a passing doubt by authors so critical as Sir Thomas Craig or Lord Stair, the collection was received with acclamation by the commentators and

¹ See above (p. 21), the considerations connected with the appearance of a Highland sennachie at the coronation of Alexander III.

² Act, 1425, c. 10.

the practical lawyers ; and it was matter for national satisfaction and pride when a commission appointed in Queen Mary's reign to revise and publish these old laws completed their functions. So implicitly did public faith continue to rely on this code as a national treasure, that when Lord Hailes, at the beginning of the present century, published "An Examination of some of the Arguments for the High Antiquity of the *Regiam Majestatem*," his telling criticism was received with a sort of surly discontent, as an unworthy effort to dispel a pleasing vision.

Sir Edward Coke, when, perhaps, he desired to write in a way that would be not displeasing to the king sent by Scotland to England, remarked, that although in recent times the two kingdoms had been separate and independent, yet the ancient constitution and laws of both were nearly identical, as might be seen by comparing the *Regiam Majestatem*, which contains the Scots books of the common law, with the English collection of Glanville.¹ Here he touched, though he intended to do so with a friendly finger, the impediment that was not to be got over through the aid of the most sanguine nationality. It was, of course, an immediate conclusion with some, that the Englishman had stolen the laws of St David for the enrichment of his compilation. In the end, however, it was set beyond all doubt that the *Regiam Majestatem* is little else than a transcript of the Treatise on the Laws and Constitutions of England, attributed to Randolph de Glanville, Chief Justice of England in the reign of Henry II.

A theory was started which might retain the *Regiam* as a national code without denying its obligations to Glanville. Edward I., when he deemed himself undoubted master of Scotland, appointed a sort of mixed commission of Englishmen and Scotsmen, to report on the compilation, from the legislation of King David and other sources, of a code of laws for Scotland. It was suggested that the *Regiam Majestatem* might be the work of this commission, who found it easier to make out a complete system

¹ *Inst.*, iv. 345 ; clxxv. "of Scotland."

from the English book than to find one in Scotland. This theory was almost the reverse of compensation for the tradition of a purely national code which it displaced. There are critical reasons against it, too; and it is plain that the Regiam was put together by some unknown person soon after the War of Independence. The recollections of a long period of national popularity are now all that belong to this celebrated code, unless we may grant that the readiness with which it was received at an early day as the exposition of the original laws of Scotland, concurs with other evidence to show that it was not until after the War of Independence that the laws and institutions of Scotland took a direction of their own, which separated them by material fundamental differences from those of England.¹

¹ Everything critical and documentary for the study of the questions about the Regiam will be found in the first volume of the Scots Acts, edited by Professor Innes. There is some ingenious critical discussion, pointing to the very manuscript of Glanville which the Scots compiler may have used, resting on the following explanation as to a manuscript containing very early versions of the vestiges of old Scots laws, which was given to this country by the Canton of Berne: "The Berne Manuscript, which seems to have been in the hands of a person of consequence in the south of Scotland in the year 1306, contains a fine copy of Glanville's treatise, which in many of its readings varies slightly from the common manuscripts, and in some of these variations singularly coincides with the text of the Regiam."—Preface, 42. More effectual service is, however, done in this critical inquiry, and the whole question is in fact brought to a point by the printing of the parallel passages in the two works at length. The name of the Regiam Majestatem is taken from the words with which the collection begins, "Regiam majestatem non solum armis contra rebelles in regnumque insurgentes oportet esse decoratum, set etiam legibus," &c. In the same strain the Tractatus de Legibus et Consuetudinibus Regni Angliæ begins, "Regiam potestatem non solum armis contra rebelles et gentes sibi regnoque insurgentes, oportet esse decoratum, sed et legibus," &c. It may seem odd, that since the copyist changed the arrangement of the parts, as if to obviate recognition, he should have thus left so palpable a mark of plagiarism on the very face of his handiwork. But in fact this rhetorical flourish was the original property of neither of them. It is in each case an inflation of the celebrated exordium of Justinian's Institute, anticipating the sentiment, that "Peace hath her victories not less renowned than war" (*Imperatoriam majestatem non solum armis decoratam, &c.*) After supporting the echo of the proemium in a creditable

While there can be no doubt that the bulk of the Regiam is a mere adaptation of the English treatise, there are some other morsels incorporated in it which, by careful criticism, have been identified with laws that had existence, it is impossible to say how long, in local usage. There are external traces of such consuetudinary laws limited to districts where they may have grown before the King of the Scots had any concern with them. He obliged himself to respect the special customs of the Lothians—probably more thoroughly Anglo-Saxon in their character than any of the other provincial codes. The special laws of Gallo-way long remained as exceptional privileges.¹ There was a condition that a native of that country, taking the benefit of the ordinary laws of the realm, was not also to plead his special privileges as a Galwegian. Among the fragments of the laws of King David is one enjoining that when the brethren of Melrose are on the track of the dis-

parody to its end, Glanville and the Justinian Institute suddenly part company. Thenceforward they exemplify effectually the absolute contrast of the systems of the civilians and the English common lawyers. The Institute, as conveying the spirit of the Roman law, professes to examine the whole field which that law, as the law of the civilised world, occupies, and to divide and subdivide its matter by strict analysis. The English Chief Justice gets at once into practice; he goes over the various forms of procedure for the enforcement of the common law as if he were the officer who had to give effect to the decisions of the courts; and if he explains the matter of the law itself, it is by way of note on the machinery for putting it in execution. To carry out its philosophical division, the Institute is divided into four books: the first treating of persons in their relation to the law; the second, of things as they may become the objects of legal conditions; the third, of the mixed relations of persons and things through succession, contracts, and the like; and the fourth treating of legal remedies for the enforcement of rights by effective process. Glanville's treatise, which in reality is restricted to this last division, professes no arrangement, but is distributed over thirteen books, according to a division little more than arbitrary and for convenience of length. It is curious, however, to observe that the compiler of the Scots Regiam divides the matter into four books; and although he does not aim at any philosophically exhaustive division, it may be inferred that he was acquainted with the Institute, and adopted its four books as a canonical division for any code of laws.

¹ "Galwydia quæ leges suos habet speciales."—St Regis Alex. II., xiv., anno 1244.

covery of robbery, then the lord of the soil shall help rather than hinder them. The possessions of the rich abbey had no doubt many temptations, and especially to men peculiarly inaccessible to the usual administrators of the law.¹

In some of the oldest records of actually adopted laws—those of King David's reign, for instance—there are references to previous laws or institutions, which are spoken of as if they were venerable customs known to every one. When a man is challenged for theft, and can find no one to be "broch" or bail for him, he is to be taken into custody, to be dealt with according to law and custom.² In another law, putting a poor and helpless person who is pillaged under the special protection of the sovereign, the sufferer is to make oath of the injuries done to him on the holy altar, as the practice is in Scotland.³

In the Regiam there are some fragments of a mysterious old code, called the Laws of the Brets and Scots. In the ordinance of King Edward already referred to these are denounced; and it is one of the reasons, and a sufficiently conclusive one alone, for holding his commissioners not to be the authors of the Regiam, that these denounced laws make their appearance there. In Edward's ordinance, the laws of King David, and the amendments of later kings, are to be the foundation of the new code, whence it is to be inferred that these were in harmony with the English laws, as indeed we otherwise know that they were; but the customs of the Brets and Scots were specially excluded from the materials out of which the new code was to be digested. Thus, in fact, the laws older than the period of Norman or English influence are denounced, while the more recent laws, stimulated by English influence, are recommended for preservation and improvement.

¹ Legum Dav. I. Vestigia (A. P.), 81.

² "Qualis lex et consuetudo est de homine sine plagio."—Ass. Reg. Dav., xvii.

³ "Super sanctum altare, eo modo quo mos est in Scotia."—Ibid., xxx. In other sentences it is "contra assisam regni," "secundum assisam terræ," &c.—See Pref. to Statutes, i. 30.

A denunciatory criticism of so practical a kind naturally excites our curiosity about the tenor of these venerable customs. If what we possess of the "*Leges inter Brettos et Scotos*" be all that ever existed, that code must have had a limited range. The only thing dealt with is the pecuniary retribution for slaughter or personal injury. We have first the "kro," "cro," or "croo" of each class in the social grade. The kro appears to be an estimate of the absolute value of the person; the fixing of his rank in the pecuniary scale, to the effect that the damage to be paid for any injury inflicted on a person in any one of the grades, shall bear the same proportion to the damage for the same injury inflicted on a person of any other grade which the cro or total value of the one bears to that of the other. From this valuation table the king is not exempt. His value is estimated at a thousand cows, or three thousand golden "*oras*," translated shillings, bearing the inference that a cow was then worth three of these. The cro of a king's son, or of a Comes Scotiæ, Yarl, Maar-mor, or by whatever other vernacular name known, was seven times twenty cows and ten—the method of expressing the round number of a hundred and fifty. The cro of the son of a Comes, or of a Thanus, was a hundred cows. From this we see that the thane was inferior to the comes. Besides the son and nephew of a thane, we have the Ogtiern, supposed to express the rank held by the fourth in descent from a thane.¹ This value, specially expressed in a mixed medium, is forty-four cows, with twenty-one *dênarii*, and two parts of a *denarius*.

The code proceeds to a few details, not easily to be rendered with satisfactory distinctness, for adjusting the proportions of the cro to be paid for certain injuries. That general characteristic of the document which made it offensive to Norman taste is that, according to a practice very prevalent in the old laws of the north, it deals with crimes of violence only as affairs for pecuniary settlement. No doubt a code providing no other remedy against crime would be considered very barbarous at the

¹ Robertson's *Scotland under the Early Kings*, i. 240; ii. 261.

present day. In Scotland it continued as a feature of the law when other remedies were available; but we would require to know the social conditions to which it was applied before absolutely condemning it, even when standing alone as the only remedy provided by the law. Violent retaliation was, perhaps, only too certain to arise without aid from the state, and there might be a rough element of civilisation in turning the responsibilities of the offender into another and less exciting channel.¹ There was no

¹ One of the fragments of old Scots laws preserves a sort of exposition of the philosophy of the system as an improvement on the natural law of retaliation, which it titles rather perversely as "God's law," probably because it is referred to as a tradition in the Sermon on the Mount. The following passage is from an old Scots translation, though not nearly so old as the law in its primitive shape: "All laws outhir ar manis law or Goddis law. Be the law of Gode a heid for a heid, a hand for a hand, an e for an e, a fut for a fut. Be the law of man for the lyf of a man ix^{xx} ky. For a fut a merk, for a hand als mekill, for an e half a merk, for ane er als mekil, for a tuth xii peniis, for ilk inch of lynth of the wound xii peniis, for ilk inch of bred of the wound xii peniis," and so forth.—*Fragmenta veterum Legum*, Acts, i. 375.

These old laws are all in Latin, but of a considerable portion of them there is a version in the Scots vernacular. This being quaint and old appears the more venerable of the two, because Latin is the language of all periods. In reality, however, the Scots versions are translations of different and not accurately-ascertained dates, but generally of the fifteenth century. We have none of these laws in any language in which the people of their day could have understood them. It happens, however, that there are dispersed among them old technical words which the scribes who put the text into Latin did not translate, not perhaps knowing their meaning, but incorporated, with Latin inflections. These in the Latin have a piebald appearance like macaronics, but when transmuted into the vernacular translation they appear as if in their right place, and contribute to the venerable aspect of the old laws. For instance, we have a "stalingiator," a stall or booth-keeper, who "nullo tempore potest habere loth cut neque cavyl de aliquo mercimonio," &c.; and this supplies the technicalities which come aptly into the vernacular version. "Gif a stallangear aw ony det til a burges, it sall be leyfull to the burges to tak his pund of his gudis quhar that evir he fyndis hym wythin the burgh. And it is to wyt that na stallangear may hafe na tym loth cut or cavyll wyth a burges of ony maner of merchandise, but in the tym of the fayris quhen that ilk man may hafe loth and cavyll wythin the kyngis burgh."—*Leg. Burg.*, liv.

Another ordinance begins, "Si quis verberando fecerit aliquem

philosophical system of prison discipline to fall back upon ; and perhaps it was as good a way as any then available for keeping alive a sense of the folly of violence, that it diminished the offender's herds, or established a permanent debt against him. Barbarous as the Normans thought this pecuniary adjustment, it has come down to our own days, and lives vigorously in our practice. There was ever in Scotland the law of assysthement, which counted that the slayer, if he might sometimes be a criminal, was always a debtor ; and the adjustment of the debt to the value of the life taken has been applied with new niceties and variations in the charges to juries on questions of damage for railway accidents.

There are other vestiges of early laws, of which the most important is the Code of the Burgher Corporations, to be dealt with further on.¹ In these we may find further rough attempts to accomplish fairness and justice, assuming shapes which, however uncouth or unadapted to philosophical principles of jurisprudence, have never, in Britain at least, been utterly discarded in more enlightened ages, but have been modified to the exigencies of social changes. It would be difficult to find anything that can be paralleled to trial by jury, where a learned judge finds the law, and a body of ordinary citizens find the fact. But we see its

blaa et blodi ipse qui fuerit blaa et blodi prius debet," &c. It deals with assaults which make blue and bloody, and is in the vernacular, "Gif ony man strykyis anothir quharthruch he is mayd blaa and blody, he that is mayd blaa and blody sal fyrst be herde quethir he cumys fyrst to plenze or nocht. And gif that bathe be blaa and blodi, he that first plenzeis hym sal first be herde."—Leg. Burg., lxxxii.

¹ That there were others to which we have no longer access is shown by the inventories of writs removed by King Edward. "In these are preserved the titles and general description of a vast number of rolls, in which there must have been entries of all sorts of parliamentary matter, of public transactions, of judicial proceedings, and, above all, of legislative acts and ordinances. Among the records removed from Edinburgh by the orders of Edward I., and afterwards restored in part to John Baliol, but of the subsequent fate of which we are ignorant, there were, *Unus Rotulus de antiquis Statutis Regni Scocie* ; *Unus Rotulus de Statutis Regis Malcolmi et Regis David* ; and *Duo Rotuli de Legibus et Assisis Regni Scocie et de Legibus et Consuetudinibus Burgorum Scocie et de quibusdam Statutis editis per Reges Scocie*."—Act Parl. i., Pref. 14, 15.

unshapen gernis in the prevalence of Compurgation. The accused is "assoiled" or cleansed if his neighbours stand by him and hold him to be innocent. There is great practical influence given to the broch, pledge, or bail, by which one citizen becomes responsible for another. Throughout there is scope given to the neighbourly spirit—the influence which the opinion of a man's fellows is to have upon his destiny, so that it shall not be entirely at the mercy of some great lord or royal officer, as in a purely despotic country.

In the laws specially attributed to King David, the purgation comes nearer the shape of a jury. In the very serious case in which the king pursues a man on a charge of felony, or for forfeiture of life or limb, he is protected or acquitted by the oath of twenty-four leal men abiding within the sheriffdom.¹

If one charges another with reft or theft, and the accused asserts that the accuser did not possess the wherewithal which he maintains to have been taken from him, he may go to the country or the neighbours on that fact, and if the decision be in his favour he is acquitted.² So also if one is claiming damage for the slaughter of a relation, or the burning of his house, the other may get the judgment of the faithful men of the court on the question whether the amount claimed is or is not excessive.³ A little later, in a statute of Alexander II., a person accused of theft or robbery may throw himself on the judgment of the neighbours.⁴ In one of David's laws, four lines long, there is an alternative given to one accused of theft: he may offer battle, or throw himself on the purgation of twelve faithful men.⁵ No one will stand up for the former of these alternatives as a rational law worthy of living into our own

¹ *Assisa Regis Davidis*, xi.: "De feloniam vel de vita et membro." The conjunction is not logically expressed. The acquittal is, "Per sacramentum viginti quatuor hominum legalium."

² *Ibid.*, vi.: "Proportatio patriæ vel visneti."

³ *Ibid.*, vii.: "Per viros fidedignos curia."

⁴ *Statuta Alexander II.*, vi.: "Proportatio visneti."

⁵ *Assisa Davidis II.*: "Utrum velit duellum vel purgacionem duodecim fidelium hominum."

times, though Wager of Battle was once actually demanded in England within the present century as a protection against the oppressiveness of the criminal law; and the proposal was backed by scholarly and sincere reasoners maintaining that, while the oppressive right called Appeal in Murder remained in the law, the old ordeal of Battle should remain too, as a mitigation of its influence.¹ It frequently comes up in these fragments of old laws; and all that can be said for it is, that it is grasped at along with other rough remedies as if to throw the life and liberty of the citizen on any available alternative rather than the absolute power of a ruler. In their dealings with this peculiar legal remedy, the old laws make no allusion to any special intervention from on high giving supernatural strength to the weak arm advocating a just cause. There is nothing in sight of the lawgiver, so far as he expresses himself, but a fair stand-up fight and victory to the stronger. Simple as such a method of settlement might seem, however, there were difficulties in its adaptation to the condition of society in the thirteenth century. It was a rule, out of comparatively late adoption, that churchmen must for decorum's sake be exempt from fighting, whatever their ability; and widows who cannot fight must be protected in their rights. Hence there is a complicated arrangement for an assize out of three baronies.² It seems to have been found, too, that a miscellaneous fighting throughout all ranks would not in the end tend to the orderly administration of justice. The law had to discover more civilised methods of judicial remedy before it could put them equally into the hands of all classes to be used by them against each other. If the keorl or churl arraigned of theft by a person of higher rank was entitled to fight out the affair, there would of necessity be a good deal of confusion favourable to the strong-handed thief. The thief's lord might fight the accuser of his own rank if he would—a privilege not likely perhaps to be abused—but the man of humble

¹ See 'An Argument for construing largely the right of an Appelle of Murder to insist on Trial by Battle,' by E. A. Kendall.

² Stat. Al. II.. v.

birth could only challenge his fellow. To remove some inconveniences caused by these restraints, there was a remedy which enabled the man of higher rank to fight by deputy.¹ This does not carry commendation on its face, yet it worked itself afterwards into an established organisation of the English administration of justice. The peaceful spirit of municipal life begins to show itself at this early period in the restraints on the ordeal of combat in the burghal code. To prohibit it altogether would have been too radical a measure, and might indeed have compromised the rank taken by the burgesses. It does not appear that the burgesses dwelling within any town were restrained from the combat with each other. If a rusticus, having a right of burgage within a town but not dwelling there, challenged a resident burgess, the burgess was not bound to fight; but if he in his turn were the challenger, the non-resident burgess required to accept the combat. When an upland man not connected with the burgh challenged a burgess, the burgess was not bound to fight, unless it were either on a plea of treason or a question of "theme" or thralldom. Any way the burgess must not fight with the upland man save outside the burgh.² In the laws of the guild brotherhood of the great city of Berwick there are careful regulations for the suppression of strife. A blow with the hand was punished with the fine of half a mark. Where blood was drawn the established fine was twenty solidi, and such damages as the brethren might award to the wounded man. It was made penal to carry a pointed knife within the bounds of the guild.³ Another spirit influenced the laws of the borders by which the brethren would have to settle with their neighbours of England. No testimony of witnesses was available to an Englishman in Scotland, and if his claim was disputed it could only be tried by the body of man.⁴

¹ Stat. Alex. II., viii.

² Leges Burg., xi. and xii.—In the vernacular translation: "The burges may nocht fecht upon na man that wonnys on the lande bit he ga first ututh the burgh."

³ Statuta Gildæ, 7 and 8.

⁴ "Per corpus hominis."—Consuetudines Marchiarum.

Scattered throughout these rough old laws are occasional uncouth touches of compassion or fair play. The gallows we find in use; but in the very beginning of a set of laws attributed to King David is one which shows that the hangmen of the age were not expert. If the thief brought to the gallows escape with his life the first suspension, it is not to be repeated, and he shall thenceforth be quits with the law, and not liable to punishment for his past offence, while those who so blundered his hanging are liable to a heavy fine.¹ This is in the true Anglo-Saxon spirit, which, down even to this day, loves to give to the criminal as well as to the hunted fox, what is called "law," by encouraging any legal difficulty that may enable him to distance his pursuers. Where criminals were caught in the act—the thief "backbearand," or carrying his plunder on his back, the murderer "red-hand"—summary justice was administered; everything was then clear, and there was no occasion for those vexing and perplexing arrangements about compurgators, or the vote of the neighbourhood, which made the clumsy protection of the innocent.

The animals at the present day peculiar to the farm were the staple element of movable wealth in these early days, as we have seen by their use as a measure of value in retribution for offences. Among the laws attributed to the reign of William the Lion is a very characteristic division of the crime of stealing such stock, into a higher and a lower grade. When the prey requires to be driven, it is of the higher; when it can be carried off, the lower offence is committed. In the vernacular translation the law is called "Byrthen-sack," in reference to what one may carry as a burden; and declares that no man should be hanged save for what is equivalent to the value of two sheep, each worth sixteen pence. If one is arraigned for the theft of a calf or a ram, or as much as he may carry on his back, let him be tried at the court of the lord of the land, where he ought to be beaten or have his ear cut off in the presence of two leal men.² Many years have

¹ Assisæ Regis Davidis I.

² Assisæ Regis Willelmi, xiii. : "Debet verberari vel auriculam ab-

not passed since English lawyers might have found in this a rebuke on the statute which made it death to steal five shillings' worth in a dwelling-house.

The distinction established in the old Scots law explains itself at once ; it separates the masterful riever, who enters upon the land with a force and drives before him the cattle or sheep, from the paltry thief who takes what he can carry off. There is a converse to this, in laws for the special protection of the poor from such masterful depredators ; and this also is characteristic of the spirit of kindness and fairness that, however clumsily it be adjusted, is found here and there in the remnants of our old laws. Thus there is one among the laws of David's reign giving a special remedy to poor people and friendless, who complain that anything is stolen from them or reft by the strong hand. The authors of such laws have a notoriety for good intentions ill effected, since the original poverty and feebleness which they are designed to protect will ever be in the suitor's way, let the remedy be as simple as it may. Perhaps the remedy in David's law was as good a one as could be devised. If the poor man oppressed had a respectable witness to swear to the truth of his charge, his plea became the king's plea, with all the prerogative pri-

scindi." In the vernacular it is : " The theyff aw to be weil dungyn or his er to be schorn. And that to be done there sall be gottyn two lele men. Na man aw to be hingyt for les price than for twa scheip of the quhilkis ilk ane is worth xvid." At a later time comes a more detailed legislative measure for dealing with the being who is still the great difficulty with all penal legislators—the incorrigible thief. Probably the man who drew the following Act believed that he had solved the difficulty : " Giff ony be tane with the laff (loaf) of a halpenny in burgh, he aw throu the toun to be dungyn. And for a halpenny worth to iiij penys he aw to be mar fayrly dungyn. And for a pair of schon of iiij penys he aw to be put on the cuk stull and efter that led to the hed of the toune and thar he sall forsuer the toune. And fra iiij penys till viij penys and a ferding he sall be put upon the cuk stull and efter that led to the hed of the toune, and ther he at tuk hym aw to cut his eyr of. And fra viij penys and a ferding to xvi penys and a obolus he sal be set apone the cuk stull and efter that led to the hed of the toune, and ther he at tuk hym aw to cut his uthir eyr of. And efter that, gif he be tane with viij penys and a ferding he that takis hym sall hing hym."—*Fragmenta Vetusta*, ii. t. 364.

vileges attaching to a royal suit; and it might stimulate the proper officer to its prosecution, that the rich man who was proved to have committed masterful rief on the poor and friendless under the royal protection, had to forfeit to the king eight cows, in addition to the restoration of the poor man's goods.¹ We have here the germ of the functions of a public or crown prosecutor in his protective capacity, and before his office was formed on the model of the despotic institutions of France.

We shall perhaps best appreciate the new spirit of humanity and personal freedom which dawns through these primitive laws, by looking for their equivalents in that great fountain of jurisprudence on which all civilised nations have drawn—the books of the Roman law. These are the perfection of human workmanship for the accomplishment of their ends. So comprehensive was the survey of these jurists of the Empire, so acutely and ingeniously did they fill in all the details of their vast system, that they seemed to have predicted and provided for every case of dispute between man and man; and the communities of the modern world, when practical difficulties arose from time to time, could always find their solution somewhere in the Justinian collection, and were content with what they found. But the student of social science will look in vain in that mighty system for any light on the principles of punishment and reformation—for almost any effective hint on penal law; those branches of jurisprudence which have tried the powers of the hardest workers and deepest thinkers of modern days. The Romans did not require to extend their sagacity and subtlety to these matters. All the inextricable difficulties of dealing with degradation and misery were cast into the great institution of Slavery. The people of the degraded and dangerous

¹ Assisa Regis Davidis, xxx. : “ Si concedendo veraciter confirmaverit quod ab eis sine lege et iudicio per vim aliquid abstulit reddat quod abstulit, et regi octo vaccas pro transgressione emendet.” The preamble in the vernacular version is expressive : “ It is ordanyt at al thai, the quhilkis ar destitut of the help of al men, quhar so ivir thai be wythin the kynrik, or besily aw to be, sal be undir the proteccioun of the lord the kyng.”

classes were made articles of property, and the state had no further concern with them, save to adjust the principle of their ownership, and the responsibility of each owner towards his neighbours for the acts of his slaves.

The people of condition in early Scotland had their thieus, thralls, or serfs too ; but it may be said that, while the institutions of the Empire ever tended to the strengthening and enlarging of the organisation of slavery, the tendency in Scotland was towards the absorption of the bondsman into the free community. From the beginning, the laws giving a title to possession of the serf are indistinct, and they seem never to have approached the perfection of the best slavery laws, in converting the human being into a chattel without privileges. The nomenclature applicable to the class is indistinct ; Thieus, Thralls, Bondmen, Serfs, Natives, Rustics, and Ceorls being employed without a meaning that can always be distinctly separable. Some of these classes could not act as compurgators or jurymen, but they could not be condemned without some trial by the country. The question whether a person was a bondsman or not was one of the high pleas that must proceed on a brief from the crown. The lord was the protector of the serf as well as his master, and was bound to this obligation in a practical form, which fits curiously into a system of pledges and neighbourly support pervading these old laws. If a serf were accused of an offence, and his lord refused to be his broch—that is, to be bail for his appearance—then, if he were acquitted of the charge, he was no longer bound to his lord, but became a free man.

The most significant, as it must have been the most efficient, of the emancipation laws was common to England and Scotland—that if a bondsman continued a year and day within a free burgh or municipality no lord could reclaim him. In Scotland the same appears to have been the effect of living for seven years peaceably on any man's land—acquiring what would be called an industrial settlement.¹

¹ These specialties stand chiefly on the *Regiam Majestatem* (ii. 8

Such a rule was likely to play into another in the laws of Alexander II., which gave redress in the king's court, by the justiciar or the sheriff, to any man whose lord arbitrarily deprived him of his holding. His possession of the holding could be proved by the true men of the country.¹

In later times, an inquest or jury sitting on such a question would look to written titles. In Alexander's time, unless in important cases of formal feudal investiture and performance of homage, there would be nothing to establish the peasant's holding, save the testimony of neighbours that the family of the ejected peasant had ever, as far as was known, been possessed of the holding, or perhaps the recollection to that effect of the true men themselves. We may here see one out of apparently a number of shapes in which the thrall, bondsman, or serf, not being one of a caste condemned to slavery, might by degrees found a heritage of freedom for his race. Through the favour of accidents which have relieved him from strict vigilance, he has lived seven years on the estate of a man who has perhaps found him useful. He and his family there abide for a generation or two; and then, if the lord of the soil desire to eject his descendant, it is found that the family have an established right to their holding.

The general tenor of what we know about the institutions of the country is, that, excepting the more ancient fragments, they were in spirit the same as the English. Being so, they could not help partaking of the feudal institutions brought in by the Normans—but they had less of these than England had. The leaning in Scotland was more towards the Anglo-Saxon portions of what England had than towards the Norman. We have seen that the Normans had not planted their castles in Scotland, and they did not plant their language. In Scots documents

and 9), but they are portions of it not transcribed from Glanville, and appear to repeat old customs. The rule giving a dweller in a town for a year and day his freedom is in Glanville, and it is specifically provided for in the Scots burgh laws.

¹ "Per probos homines patriæ."

before the great war Norman-French may be found, but only when it is used in courtesy in addressing the King of England or some foreign potentate.

The early records of Scotland furnish nothing resembling Magna Charta and the Charters of the Forests. These are, no doubt, noble testimonies to a stand against prerogative and arbitrary power. They were made after a long period of oppression by the Norman king and the Norman barons, when the original conditions of the conquered land had so changed that the barons and the people found a common cause. Of these bonds of protection, however, it must ever be remembered that they were a restoration of that which had been taken away. Every act of consent was given with a grudge: it was extracted, sometimes by force, from an unwilling monarch, who was sure to break his word whenever he could, so that the public safety required a continued renewal of the charters. In Scotland the mischief that had thus to be undone had never been perpetrated. Each country had to contend with the Norman as an enemy: in England, however, he had got into the abode, while Scotland kept him beyond the gate.

Perhaps from the very peril in which it was achieved, the English constitution drew its firmness and precision. Every point had to be fought for, and it was precisely known how much had been gained and how much lost. In Scotland there was much vagueness. It would be difficult to point to definite prerogatives or definite privileges. This source of dubiety was fostered by a propensity to employ English forms and usages. We have seen how the English collections of laws were imported in full bulk to Scotland. When an English king issued certain writs, the Scots king's Clerk in Chancery would imitate them for his master's use. We have thus, for instance, Grants of Forestry, as if the Scots kings possessed the prerogative restricted in England by the Forest Charters. These Grants professed to impart to the king's foresters such prerogatives and powers of exclusion and restriction as the English monarchs maintained; but it is observable that they did not even in words pretend to mete out the terrible

punishments falling to the lot of the slayer of the king's deer in England, and that they dealt only with pecuniary mulcts. In the seventeenth century, when the crown lawyers made a diligent search for every scrap of parchment which could justify arbitrary prerogative rights in the crown, a code of forest laws declared to be of great antiquity was produced. It was afterwards found, however, on examination, to be a compilation of recent times—times coming down to the period of parliamentary action, when every new law binding upon the people required the sanction of the Estates. It was, in fact, after the manner of other received national codes, a mere compilation from the English forest laws.¹ Of the influence and action of any real forest law existing in Scotland we have thus scarcely a trace. One who had read a greater heap of existing writings about Scotland than any other man of his day, hence said: "The kings were the great hunters, in imitation of the Norman monarchs of England; and they had in every shire a vast forest with a castle for the enjoyment of their favourite sports. The king had for every forest a forester, whose duty it was to take care of the game, though we hear little of the severity of the forest laws in Scotland."²

Hence there is a very picturesque chapter in British history in which Scotland holds no part—the story of the outlaw Robin Hood and his merry independent band, who held their own in the free forest, defying the mail-clad tyrant in his castle. Every one is familiar with the fine Saxon spirit thrown into this group. They have little respect for the great feudal lord, his laws, and his property; they will take his life upon occasion, and are in the eyes of his law the greatest of criminals, yet are they full of courtesy, loyalty, and kindliness; they scour the forest at their will and feast on the deer; they delight to rob its lord and subject him to all contumelies, yet a priest or a forlorn wandering maiden is safe among them. The slain deer are distributed to all who need, and the fruit of rob-

¹ See *Leges Forestarum*, Scots Acts, i. 323.

² Chalmers's *Caledonia*, i. 765.

bery is given to the poor. In the mere creature of popular legends we are not likely to find a parallel with the history of a great military leader and statesman, yet it is interesting to observe how like the Robin Hood of the English is to the legendary Wallace of Scotland. They are especially alike in each marking local peculiarities by his popular name. England is covered with such recollections of her outlaw—Robin Hood's Bay, Robin Hood's Chair, Robin Hood's Bed, Robin Hood's Wells, Robin Hood's Leap, and the like, all putting a mark on peculiarities in local scenery. It is the same with Wallace in Scotland; and in both the commemorations it is easy to see that this tenacity of popularity is founded on traditions which had their origin in great wrongs and deadly hatreds. In England these began with the Norman conquest—in Scotland they began with Edward's invasion.

Recurring to the faint vestiges of anything in Scotland resembling the English forest laws, it deserves mention that in late years a great territorial lord, endowed with something of the Norman spirit of monopoly in sport, did some service by trying how far prerogative forest laws, if they ever existed in Scotland, could be put in force. Whatever they were, they had not been checked, as in England, by guarantees like the Charters of the Forests; such as they were, they were unrepealed. He maintained that he was bound to plead the prerogatives of the crown, since the land he held was a royal forest, committed in a manner to his care, so as to throw on him a special responsibility for the protection of its immunities. He maintained two prerogatives: one was the right to close all communication through the forest between two districts of country; the other was a right to enter on the lands of neighbouring proprietors and reclaim from them the deer which had strayed from the royal forest. The courts of law found that there was no distinct law to support such claims—virtually they found that there was no old Scots forest law, and no restraints on personal freedom and the free use of property otherwise than by statute. It is significant that the chief support sought for the prerogative

side in these litigations, was something said by Lord Stair, a lawyer trained in the high prerogative school of Charles II.'s reign.¹

¹ *Athole v. Macinroy*, 28th Feb. 1862, reported in the case books. Among the views given out from the Bench were : "Lord Braxfield, a great feudal lawyer, observed,—' In Scotland, wild beasts being *feræ naturæ* were not the property of the crown ;' and in the well-known case of the Earl of Aboyne against Innes, the elder Lord Meadowbank denounces the English notion that the right of game is in the crown, as 'a mere subtlety of the Norman lawyers' which has no solid foundation.

"In support of his plea, the pursuer refers to a passage in Stair (ii. 2, 68) where it is said, 'The hunting or killing of deer seems to be *inter regalia* with us, except those who have them within proper enclosures ; for otherwise, the king's forest having no enclosures, the deer by straying abroad would easily be destroyed,' &c. No authority is given by Lord Stair for the opinion here expressed ; and so far as the Lord Ordinary can discover, it has not been adopted or recognised either in the judgments of the courts or by our most approved institutional writers."—Note by the Lord Ordinary.

The Lord Justice-Clerk remarked on the same passage : "Indeed, were it not for a somewhat remarkable passage in Lord Stair, it may well be doubted whether the present claim would ever have been made."

CHAPTER XVII.

PROGRESS OF THE NATION TO THE WAR OF
INDEPENDENCE.*(Continued.)*

THE GERMS OF PARLIAMENT—ITS RELATION TO THE OLDEST LAWS—THE ASSEMBLAGES OF NATIONAL COUNCILS—THEIR CONSENT TO GREAT NATIONAL ACTS—RISE OF THE BURGHAL CORPORATIONS—DIFFERENT GRADES OF CORPORATIONS—POWER AND WEALTH OF THE CORPORATIONS—THEY FORM A SEPARATE PARLIAMENT OR COUNCIL—INTERIOR ECONOMY OF THE BURGHS—INFLUENCE ON PROGRESS OF FREEDOM—RELATIONS WITH FOREIGN MUNICIPALITIES—THE BURGH FRANCHISE—THE EXCLUSIVE PRIVILEGES—GREATNESS OF BERWICK—TOWN DWELLINGS—RURAL DWELLINGS—DWELLINGS OF THE NOBILITY COMPARED WITH THE ECCLESIASTICAL BUILDINGS—NO NORMAN CASTLES—MAGNIFICENCE OF THE REMAINS OF NORMAN CHURCHES—TESTIMONIES TO THE WEALTH OF THE COUNTRY BEFORE THE BREAKING OUT OF THE WAR—COMMERCE, AGRICULTURE, AND RURAL ECONOMY.

It may seem illogical to speak of the laws themselves first, and of law-makers afterwards, but the bulk of the old collections of laws are of uncertain origin; and at the period we have reached we have no distinct hold of a legislative body, unless it may be that which, as we shall presently see, acted for the burghal communities. In the very early times we have nothing even so substantial as the unsatisfactory Witenagemot of the Anglo-Saxons, to be the parent of the subsequent Parliament. As to the collections of laws referred to in the preceding pages, with the exception of the small additions made to them by King David and his successors, we do not know whether any of them were established by competent legislative authority, or the

whole grew out of local usage. The small contribution made in the name of each of these kings is generally called an "assize," or sitting. The word Parliament had not come into general use. No assembly had as yet called itself a Parliament on its record, yet the term must have been in colloquial use, since, as we have seen, it was stipulated in the Treaty of Brighthelm, in 1289, that no Parliament should be held out of Scotland to treat of Scots affairs. The earliest Parliament—so calling itself on the record—is that of 1292, held by John Baliol at Scone, of which we shall presently have to speak. The Assizes are generally in the name of the king. There is very little absolute law in them, and they may be said chiefly to consist of good advice and regulations for the preservation of order, civility, and good morals, which there was no punishment, penalty, or other sanction for enforcing.¹

These scraps of legislation are in some instances sanctioned by the magnates of the kingdom, and even by the community at large, but generally they are in the name of

¹ Thus there is a precept of mutual forbearance and hospitality in the matters of persons going to the king's court or throughout the country on their own lawful business. They are not to go in bands formidably large, and are not to waste or rieve upon the lands they pass through; but are to solicit harbourage from the lord of the soil, and contentedly take what he gives them. As the vernacular translation has it: "Alsua in thar way the house of quhatsumevir lord thai cum to at evyn tyd til hym thai sal pray for herbery, and eftirwart quhen thai haf gottyn grant of the samyn efter the maner of the contre, thai sal enter in the housis, and fra thaim be the whilkis thai ar herberyt, nouthir met no othyr thyng thuruch violence thai sal tak," and so on (27). By another of David's laws it is commanded, or rather recommended, that the owners of land pasture their cattle upon their own fields, and not on those of their neighbours, as it seems had been the custom—"hiddertil thai war wont to do" (ibid., 26), says the vernacular translation: in a country where property in land is distinctly marked off by law, the law would require no such supplementary provision. There is one very curious little provision in these laws. If one slays another man's watch-dog (*wache hund* in the vernacular version), the slayer must himself protect for a year and day the unwatched homestead (*fmarium*, translated "mydden") and is responsible to the owner for any scathe that may befall within that period after the slaying of the dog. It is among the same set of quaint neighbourly regulations that the law against hanging a man for stealing as much of the flock or herd as he can carry away is found (p. 148).

the king alone. It does not follow that they were drawn by himself, or that he ventured to issue them unbacked by the countenance of his advisers. It has been all along the constitutional practice in Britain to issue legislative proceedings in the name of the sovereign, and the Acts of Parliament of the present day are by title the doing of the sovereign by advice and consent. Of these old Acts we only possess copies in which preambles and other formal matters are not repeated. There are other regal acts of David and his successors, of which we have not merely casual copies but the actual record, and that because they were not merely general laws or precepts addressed to the country at large, but were documents imparting important rights to persons of consequence or to communities, and they were consequently preserved like title-deeds with all their formalities and appendages. In these, when they contain matter of far less importance than the most inconsiderable of the assizes, we invariably find some body of men concurring, whether as the councillors who have taken the responsibility of recommending or countenancing the step taken, or as persons whose assent was necessary to render the royal act effective.

The growth of the feudal Parliament in Scotland follows exactly, though lagging a considerable way behind, its growth in England. The king acts with "concilium" or council, a word which has led to deep misunderstandings, since it has been supposed to refer to a *council*, or established body of responsible advisers, whereas it really means the counsel or advice given him by those he consulted. It is one of the natural consequences of this confusion of meaning that an assembling together is a necessity of the one, but not of the other, since the advice of the several councillors may have been taken separately. The advisers are at first few in number, but they extend and become systematised into the Estates of Parliament. To their progress towards completeness as a legislative tribunal much assistance was given by the necessities of kings, and their applications for money beyond the amount of the feudal taxes and casualties which they were entitled to take without any vote of consent.

The critical position of the country at the point which

we have reached seems to have rapidly enlarged the attendance of the notables, or dignified clergy and great landholders. Those assembled in 1283 at Scone to acknowledge the Maiden of Norway as the heir to the throne, consisted of thirteen earls and twenty-four barons or knights. There were no churchmen present, nor did the Act in which the assembly embodied its resolution pass in the name of the king. The whole proceeding seems to have been of a purely feudal character—those who held the great fiefs of the crown declaring whom it was that they were to acknowledge as their superior.¹ The convention at Brigham in 1289 about the marriage of the Princess with the Prince of England, consisted, besides the four guardians, of ten bishops, twelve earls, twenty-three abbots, eleven priors, and forty-eight barons. In the address which they sent to King Edward, their names were enumerated as if with a view to impress him with the number and influence of those who desired to further the projected union.²

But besides the roll of magnates, lay and clerical, who gave their counsel to the sovereign, the records reveal another element of authority in the country—an element mentioned fugitively and briefly, yet so distinctly that it can be seen to be of a popular character. Hence it has been naturally an object of much criticism and speculation, not always coming to any distinct satisfactory conclusion. The facts in themselves are soon told. For instance, take a statute of King Alexander II., bearing date in 1230, for restricting the privilege of knights and barons to borrow or become bail for persons accused of crimes, beyond the circle of their own followers. It was passed in the presence of two churchmen and five laymen, who are named, and of “many others.” Then it is recorded that the king passed the measure with the advice and consent of those present, and of the whole community.³

Another Act, dated in 1244, professed to have been

¹ Act. Parl. i., Pref. 7; Act Al. III., p. 82.

² Acta Margaritæ, p. 85.

³ “Statuit Dominus Rex Alexander, apud Striveling per consilium et assensum eorundum magnatum et tocius communitatis suæ.”—St. Alex. II., iv.

passed with the consent of certain magnates, whose names are given, and of many other earls, barons, and other the king's worthy men of Scotland.¹ Still broader, and, it must be admitted, vaguer, is the tenor of certain charters to the first great religious houses established in Scotland on the Catholic revival, inaugurated by St Margaret. In the foundation of the Abbey of Dunfermline, of the Abbey of Holyrood, and perhaps in other instances, the king acts on his royal authority and power, with the consent and attestation of the bishops, earls, and barons of his realm, and the acquiescence of the clergy and people.²

No collateral light is found to aid us in reading these curious intimations. They stand by themselves, an acknowledgment—sincere or not—of the admission of popular influence in the actions of the government. More than one attempt has been made to show that the popular element was no other than the representation of the municipal corporations in Parliament.³

In fact, however, the municipal corporations had a political position of their own, too distinct and important to let us suppose that it could be referred to in these vague acknowledgments. Apart apparently from the landed aristocracy and the Church, they were consolidating a power of their own, which enabled them to form a leading element in the more elaborately constructed parliaments of later times.

¹ "Et aliorum comitum, baronum et proborum hominum suorum Scocie."—St. Alex. II., xiv.

² If we must not take the charter of Malcolm III., about coeval with the Conquest, as genuine, we have the terms repeated in the later confirmations: "In nomine sancti Trinitatis, ego Alexander, Dei gratia Rex Scotiæ, auctoritate regia ac potestate, episcoporum, comitum, baronumque regni mei consensu atque testimonio, clero etiam adquiescente et populo."—Act Alex. II., Apx. 76*. See also the Introduction to the Register of Dunfermline, edited for the Bannatyne Club. The "Clero etiam adquiescente et populo" will be found in the charter of erection of Holyrood by King David, before the year 1150, in *Acta Regis Davidis*, 46*.

³ In 'Observations concerning the Public Law and the Constitutional History of Scotland,' by Gilbert Stuart, this view is set forth with that resounding march of rolling sentences of which he was a special master.

Before parting company with Roman dominion in Scotland, something had to be said about those eminent departments of the Empire—the Municipalities. Some of these, near the centre of Roman government, can trace back their municipal existence to the days of the Republic, and of many others it may be said that as early an origin is likely enough, though it cannot be shown. We have nothing to prove that in Scotland any of the institutions of the Romans outlived the confusions following on their departure. It is certain, however, that whenever the greater portion of the provinces north of the Tweed became consolidated into a state, municipalities on the Roman model grew rapidly within it. The form of this kind of organisation had been so perfected that it could be extended from place to place with entire ease, and it adapted itself at once to the organisation and government of any considerable body of men collected on one spot. We are not to suppose that those who propagated the system were deeply read in the books of the Roman law. Indeed, they might have searched these to the utmost without finding much to guide them; for it may be noticed that, loquacious as the civilians are in stating and solving abstract cases of legal difficulty, they are shy in dealing with the practical institutions of the Empire, and what we know of these, in fact, has only been extracted by slow degrees out of literature and history. It was from the still living practice of these institutions over the Roman world of the Continent that they passed into Britain, where there were social and political conditions that made them acceptable, and gave them a firm rooting.

While the internal machinery of these institutions was taken precisely from the Roman model, there were in their political relation to other members of the state notable differences of a very instructive kind. There were marked dissimilitudes between the standing of corporations in some parts of Europe and their standing in others; and some of the corporations, such as those of England and Scotland, though in their internal structure they were copies of the Roman municipalities, had not the same relation towards the ruling power. In some parts of Europe the municipalities were so powerful that, in the

reconstruction of the several powers during the middle ages, they worked themselves into separate states; such were Florence, Venice, Genoa, and Hamburg. Even in Russia the municipal authority was so powerful that it had a long contest with the royal or imperial authority; and it used to be a common saying in reference to the mighty power of the chief corporation there, "Who can resist the great God and Novgorod?" In Britain, all the corporations were subsidiary to the supreme power. In the corporation of London only do we find the relics of some bold efforts to achieve an independent legislative existence—an aim in which so potent a community might have succeeded in a country with a less sufficient central government than England.

Great and small, we can best understand the special character of the corporations by looking on them as mighty relics of the Roman Republic. Rome was itself a great republican corporation; and when it conquered far and wide, it naturally would not place its acquisitions under monarchs, but multiplied over them the forms of its own republican institutions. These were not congenial to the imperial government, but the municipal system was firmly rooted long before the Empire, and there was still a sufficient framework of republicanism in the imperial city itself to keep the corporate arrangements alive. Thus the corporations during the subsistence of the old Empire were so far different from those of later times, that they all held by, and were dependent on, the great corporation of Rome as a centre. By their later constitution, which still nominally exists, some of them became, as we have seen, separate states, while others were dependent on monarchs, or on great spiritual or temporal lords. The tendency of their spirit was, however, antagonistic to feudalism, and they proved generally to be separate plebeian or republican institutions having a separate interest against the aristocracy,—an interest which was apt to bring them into alliance with monarchies.

It was especially so in Scotland. The highest kind of corporation—the Royal Burgh—has always been the direct creature of the crown. It must, according to the theory of

the law, have been created by royal charter; and in some instances where no such charter has been found, and where perhaps none ever existed, the law, on proof of immemorial possession of the privileges of a royal burgh, has presumed that a royal charter of erection once existed. The chartered royal burgh in its corporate capacity was the same thing in the feudal hierarchy as a great lordship holding directly of the crown. There was this speciality in its constitution, that within the bounds of its privileges it could not subfeu and create vassals subservient to it, as a great lord could on his domains. Every burgess was a direct vassal of the crown. This distinction is curiously and expressively marked in the conveyancing of the present day. Suppose one trader should buy from another two houses in the town they live in, one of them within the old chartered burgh, the other in a portion of the town stretching beyond it: for the burghal tenement, as it is called, the purchaser becomes a vassal of the crown; for the other it may be convenient that he should become the vassal of the seller, and acknowledge his brother trader as his feudal lord.

There were, from the earliest time within the period of records, two other kinds of municipal corporation—the Burgh of Regality and the Burgh of Barony. The simplest account of the difference between these is, that while each held in vassalage not directly of the crown, but of some great lordship, the regality, with the burghal community belonging to it, was of higher rank, and swayed a greater power than the barony. The regality, with which we have already made some acquaintance as a feudal dignity, professed, indeed, to be a communication to its holder of the royal prerogatives, after the fashion in which the papal prerogatives were communicated to a legate *a latere*. Burghs of regality and of barony thus held in the feudal hierarchy, not of the monarch, but of some great lordship. Whenever the law was interpreted for the crown, it was always maintained that a royal charter was necessary for the creation of either. On the other side, some of the great heads of feudal houses, who in Scotland so often came near to rivalling the monarch, professed to create

such corporations. The crown asserted its prerogative either by extinguishing such a grant or sanctioning it, and probably adopted this latter alternative when the other would have been preferred had it been sure to succeed. Thus in one way or other, down to the time when government got into a settled shape and kept to precedent, the crown preserved the prerogative right of giving life to municipal corporations of all grades. Some of the regality and barony corporations became rich and powerful, and then were raised to the rank of royal burghs. Several of them held under ecclesiastical lordships, such as the great abbey, and these had generally a far better lot than those which were under the banner of quarrelsome lay lords.

No higher class of municipal corporation than the royal burgh was known to the law. The *civitas*, or city of the Romans, which is understood to have expressed a central corporation governing others of inferior degree, was not an institution of Britain. Some towns were called cities by way of distinction, but this was done from accidental conditions which gave no special powers to their governors or representatives. Edinburgh became a city as the seat of royalty. When the great Italian municipalities revived after the fall of the seat of empire, the ecclesiastical part of the imperial system, which so effectively survived the political, took them in hand, and the bishops became their rulers. Owing, it is said, to this specialty, a certain municipal rank was permitted to accompany a bishop's see, and in England the cathedral town came to be called a City. The practice seems to be represented in St Andrews in Scotland, and in Glasgow, which was for centuries in burghal rank a mere burgh of barony.

Such terms as "municipality" and "corporation" are not to be traced back to ancient use in Scotland. It is not likely that any of the framers of the corporations knew that they were copying institutions invented by the Romans. They were spread over Europe, and found their way to this country, where they were eminently adapted to the spirit of the people. The name by which they were called bears witness to the purposes for which they were devised. The word "*broch*," both in England and Lowland Scot-

land, meant one who pledged himself for another, or became bail for him. So in the English form of "borough," and in the Scots of "burgh" or "burrow," it meant a community, who, united together in a common lot and cause, were pledges or securities for each other. The position of these communities, indeed, could not be better expressed. Holding their own as they did against the powers of the feudal aristocracy, and sometimes against the monarchs who were in use to make common cause with them, they found that in their hands the capacity of the numerous weak to stand up through the influence of combination against the individually strong, was sorely tested.

The Roman municipalities, as we have seen, were subordinate to the great central corporation, Rome; and even after the Empire this subordination was to the republican elements of the chief city rather than to the imperial. There was thus an assimilation between the central authority and all its adherents not to be found in the feudal corporations. Yet efforts were made to keep up a responsibility to the power of the crown by appointing a great officer to take charge of the burghs, and see that all things went as they should within their walls. This high officer was the Lord Chamberlain. He was required to hold stated *Iters*, or circuits of visitation, in order to see that all the functionaries in the burghs performed their proper duties. One of the oldest of the old collections of laws sets forth with extreme distinctness all the duties as to the due performance of which it is *his* duty to make investigation. These need not be repeated here, as they are of the kind of matter which, whether dealing with ancient or with modern affairs, forms dry reading to those who do not happen to have some special source of interest in them.¹ This kind of central responsibility does not seem to have assimilated itself, like that of old Rome, to the corporate spirit. The functions of the chamberlain gradually fell out of use and were lost; we have, indeed, scarcely any

¹ *Iter Camerarii*, of which the best edition is in the first volume of the Scots Acts.

trace of their existence, except in the elaborate code in which they were set forth, and probably they were a great project found not to work. The burghal corporations at all events ceased to be under control, and as independent communities scattered over the realm it was necessary that their powers should be limited, otherwise there could be no supreme government. Before, however, they felt the restraint of king and parliament, where they had their representatives to console them for loss of separate power, they had perhaps accomplished their mission by establishing several little centres of reaction against the predominance of feudal or aristocratic power.

As with the seigniorial powers which were in vital force before the crown professed to create them, so it seems to have been with the municipal bodies, and their incorporation under the crown became thus a compromise, by which, on the one hand, their powers were kept within certain limits, and on the other they got the countenance and protection of the monarch. It is certain that mention is made even in royal documents of the existence of burghs long before the time when there is trace of any royal charter of erection having been granted. Perhaps the oldest known charter absolutely bringing a burgh into existence is that in which, about the year 1200, William the Lion created the burgh of Ayr, to be convenient to the castle which he had there built at the mouth of the river. But charters much earlier reveal that there were burghs in existence and recognised by name at the time when they were issued; for instance, some fifty years earlier, King David grants to his mother's Abbey of Dunfermline property in his burghs of Edinburgh, Perth, Stirling, Haddington, and Dunfermline.¹ In fact, the extent of the trading and municipal power that had grown in Scotland before the War of Independence is not easily realised, on account of the supremacy which feudalism obtained over it after the termination of the war. The crown is found with a liberal hand endowing municipalities with powers and privileges; yet it is easy to see that

¹ Report, Commission of Inquiry as to Royal Burghs.

the liberality of the crown is measured by the power and influence already in possession of those whom it professes to favour. By one brief but very remarkable charter, King William the Lion gives the royal authority in a general way to municipal powers, which seem to have been too wide, alike in their character and their territorial extent, to be specifically defined by the officer who prepared the crown writs. This document professes to confirm privileges which existed in the reign of King David. They were possessed by the burgesses of Aberdeen and of Moray, and in fact by all the burgesses north of the Grampians; and the nature of the privilege was the holding of a free "ansus" where and when they pleased.¹ The ansus was a privilege of trade and association. What its exact technical meaning may have been it is difficult clearly to define; but of the extent to which these might reach we know by the example of the great Continental association of the Hanse Towns.²

About the time when the municipalities were first represented in parliament, dubious theories already referred to have been afloat: in these it seems to have always been taken as a point in favour of the antiquity of the popular element in the Scots Parliament that they held an early place in it. It may be questioned, however, whether, in their palmy days before the great war, a junction with the feudal parliament, such as it then was, must have been of necessity an object in the direction of their aggrandisement.

¹ "Burgensibus meis de Aberdoen, et omnibus burgensibus de Moravia, et omnibus meis ex aquilonali parte de Munth manentibus, liberum ansum suum tenendum ubi voluerint et quando voluerint."—Leg. Dav. I. Vestigia, A. P. i. 77.

² HANSA Mercatorum Societas — Collegium HANSATUS, in hansam—id est societatem admissus, ex-German. *Hansen*, in numerum sociorum recipere. Du Cange Glos. We have, both in England and Scotland, the term *handsel* or *hansel* for the first money a trader received for goods—the realised beginning of transactions. It is used for the gratuities given after New-Year's Day, on "*Hansel Monday*," the equivalent in Scotland of "Boxing Day" in England. The Germans have apparently from the same source the verb *hanseln*, to initiate.

Looking forward, we find the earliest parliament in which the representatives of corporations held a secure place to be Bruce's great Parliament of 1326, when a supply was voted to meet the pecuniary cost of the War of Independence. In the mean time the burghs had become so much more matured for combined constitutional action than the other powers of the state, that they were organising themselves into a sort of separate parliament. How it fared with the Hanse associations north of the Grampians, and whether they ever showed head or strength, we now know not. It is pretty clear that no such associated institution survived the great war, although several eminent burghs arose out of its separate elements.

In the south, however, there was a burghal parliament. When we first make acquaintance with it, it is called the Court of the Four Burghs. These were Edinburgh, Berwick, Stirling, and Roxburgh, and it seemed to have retained its old name when other corporations joined it. Its functions were that mixture of the judicial and the legislative always found in the earlier legislative assemblies of modern Europe. It reviewed the decrees of the Lord Chamberlain in questions where individual corporations were concerned, as the English Parliament reviewed the decisions of the king's judges—the Chamberlain himself sitting with the burgess representatives, and probably guiding their proceedings after the practice still followed by some law lord in the House of Lords.

The Court of the Four Burghs did not restrict its legislative powers to municipal organisation—it established rules of law on matters of private rights and obligations—as, for instance, on the modes of succession to the property of burgesses.¹ On such matters they took earnest

¹ It seems to have been held by the chief courts that the burghs might have special laws of their own for private rights and obligations, and that the Court of the Four Burghs was the interpreter of these laws. Thus Marjory Moygne, widow of a burgess of Berwick, sues her husband's executor for 200 merks settled upon her by her deceased husband before marriage. He died bankrupt, and she maintains that, by burghal custom, her claim became a privileged

counsel with their brother corporations of England, showing, in an eminent degree, that spirit which has made the great trading towns of Europe ever seek the establishment of uniform laws as an efficacious facilitator of trade, by enabling every trader to know how he is bound to act, and what form of bargain will hold good in the various places in which he trades. Altogether the laws of the Four Burghs are more complete and compact, and have in them more of the qualities of a body of statute law, than any other fragments of ancient legislation in Scotland.

The power which this body must have had of old is attested by its marvellous tenacity of life. By degrees it absorbed all the royal burghs of Scotland ; but as it thus widened, its separate influence dwindled, not so much from this widening, as because the municipalities took their place in the general parliament of the land. Under the name of the "Convention of Royal Burghs" it continued to adjust questions about the internal constitution of the separate corporations. This function was superseded by the Burgh Reform Act of 1833 ; but the Convention still duly meets every year in Edinburgh, and has its formal parliamentary sittings, as if to keep the institution alive and ready for action should its old powers ever revisit it.¹

debt, which must be paid before the estate is distributed by dividend among the other creditors. The supreme judicatory for the time refer the question to the Court of the Four Burghs, who report the custom to be in favour of the widow : "*Requisiti fuerunt de consuetudine burgorum, si petitio dotis sit principale debitum, necne, et si debeat solvi præ aliis debitis. Qui dixerunt quod lex et consuetudo burgorum Scotiæ talis est, quod petitio dotis est principale debitum, et quod præ aliis debitis debet solvi.*" It is very unlikely that this litigation would have come down to us if it had not become memorable from one of the parties appealing against a judgment in Scotland to King Edward I. of England, when he was asserting his right of superiority over Scotland. The affair thus became a leading case of signal importance, and was preserved in Ryley's Collection of Pleadings in Parliament, p. 145. See also Stevenson, Documents connected with the History of Scotland, i. 378.

¹ Whoever desires to follow up more fully the history and acts of the Convention will find the way prepared for him in the 'Records.'

The franchise for the election of magistrates was very wide—so wide as to be rather indistinct, and afford ground for critical contention. On the first mute after the feast of St Michael they were to be chosen in common consultation; they were to be chosen by the good men of the town—those who were leal and of good repute.¹ It is not even provided that the electors must be burgesses—and that rank was not difficult of attainment, as we have seen in that law which conferred it on a fugitive serf from any of the feudal lordships, who could hold on for a year and day as an inhabitant of the burgh. There seems to be no trace of thralldom or serfdom within the Scots burghs.² In this, though hardly in anything else, they stand in contrast with the English corporations, in which the existence of a servile class is marked by the emphatic use of the word Freemen as applicable to the persons who were not in slavery.

Through all this democratic spirit, however, there is a

of the Convention of the Royal Burghs of Scotland, with Extracts from other Records relating to the affairs of the Burghs of Scotland,' 4to, 1866. This is one of several valuable contributions to municipal history in Scotland by James David Marwick, the Town-clerk of the city of Edinburgh.

¹ "*Communi consilio proborum hominum villæ qui sint fideles et bonæ famæ.*" In the vernacular version: "Thruich the consaile of the gud men of the toune, the quhilk aw to be lele and of gud fame."—*Leges Burg.*, lxx.

² There was one provision of a correctional character affecting bondmen within burgh, which only tends to show that there they were not in their natural place. The king's bondmen were excluded from the privilege of freedom by burgess qualification, and consequently it is one of the chamberlain's functions, in looking after the interest of the crown, to see that none of the king's bondmen or "natives" are hiding in burghs—"de nativis domini regis latitantibus in burgo."—*De Articulis Inquirendis*, St. i. 317. It does not appear whether the king came within a restraint against the seizure of bondmen during the peace of a fair, or during the holding of a common fair in the town. In the vernacular version: "Gif ony man fyndis his bond in the fayre, the whilk is fra him fled, quhil the pece of the fayre is lestand he may nocht of lach chase ne tak hym."—*Leges Burg.*, lxxviii. Another provision in the same code seems to show that the rich burgesses kept hired domestics. The flesher or butcher, while killing and sorting meat in the house, is to eat at board with the servants—"cum servientibus."—*Ibid.*, lxiv.

curious aim at severing the occupants of civic dignities from all sordid contact. Those honoured with the magistracy must not bake bread nor brew ale for sale in their own dwellings.¹ The Merchant Guild was a separate corporation within the burgh for purely trading purposes, apart from mechanical pursuits; and indeed this was the class which in Scotland seems to have been specially fenced off by exclusive corporate privileges. They had to pay for these, in some measure, by supporting the dignity of trading over mechanic pursuits, and three branches of handworkers—lytsters or dyers, fleshers or butchers, and shoemakers—were signalled as incapable of holding the rank of Guild brethren, unless they should abandon the pursuit of their craft with their own hands, and conduct it solely by employing hired operatives.²

The old trading communities were fortified by strong exclusive privileges: these lived down even to the present generation, and were extinguished with the unanimous censure which attends upon the burial of intolerable abuses. But a participator in this censure might, without inconsistency, have a word of apology for the exclusive privileges in the days when they were established. These were days of strife and tyranny, when one order required to protect itself by something like the organisation with which others were prepared to attack it. The exclusive corporation was made so, to protect it from the host of potent enemies that surrounded it; and it was when personal greed and selfishness protracted the exclusive rules into the time of law and order that their mischievous injustice was perceptible.

The vicissitudes of these old corporations have for us the interest attending on everything that at some distant

¹ *Leges Burg.*, lix.—In the vernacular version: "Nane aldirman, bailzie, na bedell sall bake brede na brew ale to sell wythin thar awin propir house durande the tym that thai stand in office."

² *Leges Burg.*, lxiv.—In the vernacular version: "Of thaim that may nocht be in the gylde. It is to wyt that nothir lytstur nor fleschwar nor soutar may be wythin the fredome of the gylde, bot gif he sall forsuer to do that craft wyth his awne propir handis, bot wyth servandys undir hym."

period has held a great place in the esteem of men. Of Roxburgh, one of the four pre-eminent cities, there stands not one stone above another. Inverkeithing, where sometimes the burgher parliament and sometimes the king's court was held, is a dirty village, curious in its squalid memorials of old importance. Glasgow has long ceased to bewail the oppressions which as a mere burgh of barony it suffered from its haughty neighbour Rutherglen, a royal burgh, with exclusive privileges of trade over the surrounding district. Most memorable of all has been the fate of Berwick. From its wealth and magnificence this town was becoming the capital of Scotland, as London had become that of England.¹ Indeed, it stood in the estimation of contemporaries as a rival to London and some of the great Continental municipalities. The English Government repeatedly tried to set up a castle on the south side of the Tweed, to menace it and cripple its trade, but the project was ever defeated by the vigilance of the burghers, backed by the Government of Scotland; and the Bishop of Durham having once managed to get the castle erected, it was pulled down again.² The fate of this great trading mart was that which ever must befall a centre of civilised industry, when in the course of events it becomes the centre of an exterminating war. Berwick became the one trophy which England retained of the great contest with Scotland, just as Calais was for long the one monument of the subjugation of France. Berwick remained long on the statute-book a signal memorial of the precision with which the marches between England

¹ "*Ipsa civitas quondam adeo populosa ac negotiosa exstiterat, quod merito altera Alexandria dici poterat, cujus divitiæ mare, et aquæ muri ejus.*"—Chron. de Lanercost, 185. The chronicler, who is a churchman, praises the liberality of the citizens in contributing to religious and charitable institutions; but, as will occur, there are exceptions. There was a foundation to honour the festival of St Francis, and the endowment of certain poor brethren, whom the corporation were beginning to starve; but they were checked by the apparition of its founder, John Gray, who was both a knight and a burghess. In the *Livres de Reis* (319) it is said that, when the English took the town, "there great possessions were found, and much property."

² Chron. de Lanercost, 7.

and Scotland had at last been drawn. The Acts of Parliament which were to be law for England could not be law there also, unless they specially included "the town of Berwick-upon-Tweed."

Such recollections give emphasis to what is perhaps, on the whole, the most interesting feature in the Scots municipalities—their close harmony with those of England. Although, as we have seen, the Government of Scotland would not permit a frontier fortress to be built on the English side of the Tweed over against Berwick, yet there was so little jealousy of general intercourse between the two countries, that we find notice of a bridge across the Tweed at Berwick so early as the year 1271.¹ The harmony between the municipal institutions of the two countries is witnessed even in their nomenclature, the English terms Mayor and Alderman being of common occurrence in Scotland until entirely superseded in after-times by the terms savouring of France—the Provost, the Bailie, and the Dean or Doyen. The thoroughly Anglo-Saxon character of these institutions must be visible in what has been already said of them. But there is more distinct testimony to the harmonious action of the municipalities of the two countries. We have seen that the Scots corporations took advice of those of England as to proper corporate custom and law. As there is little doubt that the impulse given to the corporation systems in both countries was excited by the determination to combine

¹ In that year Adam de Bedford was beheaded in England for having associated with pirates (*prædones maris*) in Scotland, at the north end of the bridge of Berwick. The object of the procedure, whence this isolated fact is learnt, appears to have been to establish by inquest that he had property in England, so that he might be punished there for offences committed in Scotland (*Calendarium Genealogicum*, 56 Hen. III., p. 159). The *Scala chronicle* mentions, about ten years later, the destruction of the bridge from the swelling of the river. It is a coincidence that might have been thought ominous, that a chronicler, in the page in which he commemorates King Edward's assumption of the title of Lord Paramount and his right to dispose of the crown, records the fall of this bridge. "Enviroun cel hour chey le pount de Berewick outre lew de Twede de grant cretyne de eaw, pour ceo que lez archis estoient trop basscz."—*Scalacronica*, 118.

against Norman oppression, England, from far deeper sources of experience, was able in such a matter to give sound advice to Scotland. At all events, we have abundant evidence of similarity, and even identity, in corporate institutions. In the collection where all that is now available to us about these and other Scots institutions contemporary with them is stored up, there is a careful comparison of the vestiges of municipal organisation in England and Scotland, showing identity both in substance and language.¹

It would be a great addition to what we know of the growth of civilisation among us, could we realise the internal aspect of one of these burghs, with its streets and shops and houses; but there are scarcely the faintest means of doing so. Although there are other relics of far earlier periods, there is no remnant of domestic architecture in Scotland nearly so old as the great war. Any buildings that tradition may happen to carry back to such a period are certainly of far more recent date—at the earliest, generally of the sixteenth century. But the fact is, that unless in those towns of Italy or central Europe where the Roman plan of building houses with stone continued down through the changes in architecture of the Gothic periods, there are hardly anywhere traces of purely domestic buildings of so early an age. Where very ancient types of structure exist in the streets of towns, they are generally found to have belonged to ecclesiastical edifices.

¹ As containing the authority for all that is here said about the Scots municipalities, reference is made to the collection of old laws in the first volume of the Record edition of the Scots Acts, and to the commentaries by which they are accompanied. The identification of the substance of burghal institutions in the two countries will be found in the notes to the preface (p. 33), accompanied with the remark that "it is hardly necessary to observe that no feeling of hostility yet interfered between the two countries to prevent the inhabitants of Lowland Scotland and of England, kindred in blood, language, and manners, from adopting together the steps of a system which opposed, to the oppressive power of the Norman nobles, the union of numbers in each town, and the combination and mutual support of the trading communities of the whole island."

We must suppose the houses of the old citizens of Scotland to have been built of wood, like those of England and of northern Europe generally. We have seen that it was an ancient practice of the Columbites to build their houses, and even their churches, with wattles, after the manner of basket-work, and the practice continued down to the eighteenth century in the Highlands. It was natural to the places where oak coppice grew; and the house so built was not so unsubstantial and comfortless as the dwellers in stone or brick houses might suppose. The walls were of a stout double framework, with turf or earth piled in between, so as to make them as thick as might be desirable.¹ We know that the houses in the towns were extremely combustible; and the old burghal code contains anxiously-prepared regulations touching the spreading of conflagrations.² Whole towns were often burnt down. As some particular season becomes memorable for its unprecedented multitude of shipwrecks, although such disasters are of common occurrence, so the year 1244 became memorable in Scotland for the multitude of its city conflagrations; and if we believe the chroniclers, the towns of Haddington, Roxburgh, Lanark, Stirling, Perth, Forfar, Montrose, and Aberdeen, were burned to ashes.³

It is the less likely that domestic houses were built of

¹ In the year 1233, when the Abbey of Paisley had an inquisition to revindicate certain lands on the Clyde which they said had been impropriated from the church of Kilpatrick, Alexander the son of Hugo attests how, more than sixty years previously, he had, when a boy, going with his father on a visit, seen a certain Bede Ferdan living in a large house built of wattles beside that church—"habitantem in quadam domo magna fabricata de virgis."—*Feuda Vetusta*, 85; *Act. Parl.*, v. 1.

² One of these curiously exemplifies the neighbourly and kindly spirit often enlightening these ancient laws. He from whose house the conflagration may have spread is not to be too heavily responsible, for the poor man has his own griefs. In the vernacular version: "Gif that fyr passes out of ony mannis hous, quharthruich hapnis mony housis to be brynt to the nichtburis, na greyff nor na dystroblans sal be done til him mar than he has, for sorow and hevines has he ineuch foroutyn mar."—*Leges Burg.*, 1.

³ "Usque ad cineres."—*Scotichron.*, ix. 61. He calls them "fere omnes burgi Scotiae."

stone, as it is probable that down to the opening of the War of Independence there were very few castles built of stone in Scotland—that is to say, strong towers which were alike fortresses and dwelling-houses according to the Norman and the Gothic fashion. It has already been observed for its political significance, that there are no remains of Norman castles in Scotland.¹

This type of architecture is endowed with extremely distinctive features, which at once tell their own history. They are the continuation—the degradation, some might say—of the Roman type; and no one can tell exactly where the one ends and the other begins, or where the boundary-line lies between the classical and the Gothic. It has been said that the term Norman is not a proper name for this form of architecture, since it was adopted, with more or less variety, by all the communities which

¹ The way to make sure of accuracy in such comprehensive assertions is to strive to find out the exceptions. In this the Author has done his best, and has recommended others to do the like. He was much struck by the Normanish tone of a gateway drawn as an illustration of a privately-printed book called 'Memorials of the Montgomeries.' It is in the small town of Irvine, in Ayrshire, and belongs to a ruined building once the residence of the Montgomery family. A visit to the spot rather confirmed the notion that some of the features of the building were of the later Norman. There is a round arch, with thinnish rounded mouldings, and small round pillars with squared or bevelled bases and capitals, with the tooth or star decoration in the hollows of the mouldings. The doorway has more of an ecclesiastical than a baronial look, although the building it belongs to is baronial. The features are certainly those common to the latter period of the rounded and the beginning of the pointed architecture. At the same time the rest of the building is of later date, and it would require the eye of one who is not only an archæologist but a practical architect to determine that the gateway really is of the age it professes to belong to, and has not some little feature betraying more recent workmanship—a means of detection which the imitator rarely escapes.

In Grose's *Antiquities of Scotland* there is a drawing of a doorway of Closeburn Castle, in Dumfriesshire, thoroughly Norman. On a pilgrimage to the spot, however, no such doorway and no vestige of Norman work could be found. The castle is just the featureless Scots peel tower of the fifteenth or sixteenth century. Such has been the result of a search after Norman work in the baronial architecture of Scotland.

followed the fashions of the Romans ; but it became especially the function of the Normans, as the active propagators of civilisation, to spread the method of building which they had seen in their conquests in Italy and France. The baronial form of it, at all events, was directly theirs. Wherever they went, they built castles, and as the style of building them changed with time until it worked itself into pointed Gothic, we know by the castles of a country at what time the Normans rooted themselves in it. In England it was the time of the great square towers, with round arches and no outworks ; in Scotland, as well as in Wales and Ireland, it was the later time of the pointed arch, with central towers and circular flanking outworks.

Of this class we have fine specimens in Scotland—Bothwell, Caerlaverock, Kildrummy, Dirleton, and several others. The oldest of them is perhaps Hermitage, which has scarcely any flanking works—nothing but abutments at the corners, like the Norman towers, but in this instance they meet in a wide Gothic arch overhead. The erection of this castle was a political event importing that such buildings were rare. It has been told that in the year 1244 King Henry of England marched a great army northwards to attack Scotland, and among the grievances he had was the erection of this castle in Liddesdale so near the English frontier—it was denounced as a threat on the border, just as Scotland denounced the castle on the English side of Tweedmouth.¹

¹ “ Quod quoddam castellum erectum fuit per Scotos in marchiis inter Scotiam in valle scilicet de Liddale quod appellatur Hermitage.” —*Scotichron.*, ix. 61. Even though this story of the English taking umbrage be not correct, the passage shows how important this castle was considered. I believe it to be about the oldest baronial building in Scotland. It is strange that a building with such a memorable after-history—the abode of the wizard Soulis, the prison where Sir Alexander Ramsay was starved to death by the Knight of Liddesdale, the place to which Queen Mary made her frantic journey to see the wounded Bothwell—should have escaped the pencil of the illustrators of Scots architecture and scenery. There are, to be sure, representations of it, but I never saw one which gave a notion of its very peculiar architectural character.

There is something suggestive in finding that this, seemingly the

These fine Gothic buildings, probably the greater part of them built by the English invaders, are thus our oldest baronial remains. The rude square towers so abundantly scattered over Scotland, though invested by local tradition with indefinite antiquity, belong to the period after the war, and are generally no older than the fifteenth century.¹ What, then, are we to make of the numerous historical events in which castles figure back to the earliest times—castles still existing, as Edinburgh, Stirling, Dumbarton, and many others? Places of defence they were, no doubt, but it does not follow that they were castles such as arose

earliest strength built in Scotland according to the new method, belonged to the most powerful of all the Norman settlers, the Comyns. It is very likely that there were then no such buildings in the royal fortresses. Had they existed in Edinburgh, Dumbarton, or Stirling, for instance, it is very unlikely that they would be utterly obliterated, for architecture of this kind survives an enormous deal of pommelling, hard usage, and even improvement. The White Tower of London betrays its Norman features vividly, for all the pains taken to obliterate them. On the rock of Edinburgh Castle there is one relic of old architecture, older still than Hermitage; it is a Norman church.

¹ When a building has any ostensible claim to antiquity as an obsolete type of castle or church, there is a popular notion that rudeness and decay are marks of age. No buildings last long but those that are firmly built, and our having in existence buildings of any assigned past age, depends on whether there was then a zeal and aptitude for thorough good mason-work. Hence very ancient buildings often seem more modern than others built centuries afterwards. Pæstum would seem fresh and new beside many of our buildings of the Restoration time of Doric architecture. It happened that the masons in Norman, and after them those in early pointed architecture, did their work thoroughly, laying it in courses of square close-cut blocks. Hence it will happen that the keep of a Norman castle seems to be more modern than the rude, decaying buildings of later time which cluster round it.

In the outlying districts of Scotland—those which were hardly under the crown till a later period—there are some rather puzzling castles, such as Castle Swein, opposite to Jura, and Dunstaffnage. These have little of the decoration that enables us to assign a building to its proper period of the Gothic series, and they have not the finish of the good specimens of the Norman and earlier pointed work; yet they are evidently early in the series, probably little if at all more recent than Hermitage. One might imagine them as built by the Norwegian potentates of the West in imitation of the models furnished by the English Normans.

in England in the reign of Stephen, and in Scotland in later times. In the old Scots strength it seems likely that the fort and the dwelling-house were not mixed up—that there was a fortified rampart, with unfortified dwelling-places inside; and if it was so, it can only be said that the Vauban system of fortification has brought us back to the same idea. It is not to be supposed that the great circular ramparts of stone known as hill-forts were in use in the historical period.¹ Their names do not answer to those of the castles historically spoken of, and they were far too large to have been permanently occupied as fortresses; some of them could only have been manned to any effect by large armies. We find traces of narrower defences, and these are not always on the ground that is naturally rough and precipitous. Abrupt trap-rocks shooting out of the plain, as in Edinburgh, Stirling, and Dumbarton, formed natural sites for fortresses that could not be overlooked. Otherwise, however, the engineers of these early works seem to have disliked rocky ground, and to have affected earthen mounds, some artificially made, others scarped out of diluvial banks. The reason for such a selection seems to have been the opportunity which an earthen mound gave for staking. There are several of these mounds in Scotland, circular or oval, rising very abruptly from the plain, with a flat table of turf above. The ruins of Roxburgh Castle stand on one of these; there is another at Lochmaben, on which stood, doubtless, a castle earlier than the present. Ruthven Barrack stands on a good specimen of the same kind of work; and there is another very remarkable, called the Peel Bog, at Lumphanan, where Macbeth was slain.

It will be seen that these generally have a strategic command of a country. The abrupt diluvial slope on the edge of a stream often afforded this by its geological position, and saved the trouble of raising artificial earthworks. At Forteviot, reputed to have been the capital of the Pictish kings, the little river May, after tumbling down the sides of the Ochils, makes a sweep round abrupt banks of

¹ See an account of these above, chap. iii.

this kind. Standing on their ridge, one can see how a fortress there commanded the passage of the mountain districts, both of the Grampians and the Ochils, through the great valley called Strathearn, still the main highway between north and south in Scotland. As to the dwellings within the ramparts of these fortresses, it is only to be supposed that they must have been built of the materials most readily at hand. That they were generally built of wood is inferred from the numerous burnings of these forts. Destruction of strongholds by fire is of continual occurrence, from the dawn of history to the destruction of the Lord of Athole by the adherents of the Byssets in Haddington, and the burning out of the English garrison at Lanark by Wallace.

Whether or not this be a correct idea of the system of fortification in Scotland before the great war, it is at all events certain that, of castles of the Norman type, prevalent from the time of the Conquest to well on in the thirteenth century, Scotland can produce nothing to show that the country was under the influences which produced the grand specimens yet existing in England. The political significance of this is the more remarkable, as ecclesiastical buildings in that style in Scotland are abundant and magnificent. These are the mark, indeed, of the united inroad of Norman manners and Catholic unity according to the Roman model.

A word may be said about some relics of another religious school, the existence of which only tends to make more emphatic the impulse given at one and the same time to the architecture which came from Rome, and to the ecclesiastical system which radiated thence. Most people have heard of those mysterious edifices, the Irish round towers. We have two specimens of the same structure in Scotland; there are none in England or on the Continent. Buildings so exclusively peculiar could not but excite curiosity and wonder; and the more so that, while they stand beside churches, or are, indeed, actually part of them, yet it is clear that they were built at a different time, and never formed any feature of the design on which the church might be built. Many bril-

liant theories about temples of Phalic or Buddhist worship, and astronomical observatories for contemplative Druids, were dispersed by a minute comparative analysis of the features of the several round towers, and an examination of any scrap of history relating to them.¹ The results were clear, and adjusted themselves easily to historical conditions. Though different in their general form and structure from other early Christian buildings, yet many of the round towers had mason-work of the unmistakable Norman type; others were raised by builders who apparently were not acquainted with the structure of the arch, and who had neither this evidence of scientific advancement in architecture, nor any of the minor adaptations of the Norman school. A knowledge, then, of what was doing elsewhere, seems to have come in upon the native builders while they were at this kind of work, and so the later of the round towers are identified with the Norman period of architecture.

They were eccentric, however, in this, that while the Irish ecclesiastics seemed to have built nothing else of stone, or nothing of a lasting kind, they had raised these prodigious towers. Yet if we suppose their means to have been limited, this devotion of them would, keeping purely ecclesiastical purposes in view, be a good investment. The great difficulty they had to deal with was the sudden invasions of the Norsemen, who carried off what was ready to their hand, and burned what was destructible. One cannot suppose better fortresses of defence against enemies like these than the round towers. They had no stairs, and could only be scaled by ladders. Nowhere could the treasures of the Church—the books, the relics, and the objects of more material value—be so safe

¹ A good example of how the same thing may be done in two totally different ways is found in comparing Mr Petrie's solid and cautious investigations with the smaller but prodigiously more ambitious book of his rival, Henry O'Brien, 'The Round Towers of Ireland; or, the Mysteries of Freemasonry, of Sabaism, and of Buddhism for the first Time Unveiled.' This is about the wildest and grotesquest flight that archæological speculation has ever taken, and that is saying a good deal.

as high up in one of these stone tubes, whether attended by a guard or not. It was impossible to attack them without a scaffolding of equal height; for to attempt to topple them down by attacks from below, before the days of artillery, would have been destruction to the besiegers.

It was natural that, as the practice of their parent Irish Church, the raising of such buildings should find its way across to the ecclesiastics of Scotland, who came to be called Culdees. We have hence two modest specimens of them where there were eminent Culdee houses—Abernethy, on the south bank of the Tay, and Brechin. The tower of St Regulus in St Andrews, though square, belongs to the same architectural type.

These, then, as relics of the ways of the old Culdees, stand surrounded by the thoroughly Norman buildings of the age of Margaret and David. These are so conspicuous that every one having the least interest in such matters knows them. There are Dunfermline, Arbroath, Jedburgh, Kelso, and Coldingham—great studies for the historical architect. And now that such inquiries have come to be among the hobbies or pursuits of the traveller or tourist, small specimens, sometimes curious and beautiful, have been discovered in unexpected places, to bless the eyes that have first looked upon them with critical discernment.¹

As we have seen in some other matters, so in this of the fashion of church architecture, the traveller crossing the border from England would not have felt that he had changed countries. The leading characteristics are the same in both countries. The Abbey Church of Dunfermline has features so identical with those of Durham Cathedral as to suggest that they must have been the work of the same builder. The oldest specimens of

¹ About the fullest recent revelation of obscure specimens will be found in the two books of Mr Muir, 'Descriptive Notices of some of the Ancient Parochial and Collegiate Churches of Scotland,' 1848; and 'Characteristics of Old Church Architecture in the Mainland and Western Islands of Scotland,' 1861.

pointed architecture in Scotland are rigidly in the style specially called Early English.

These noble buildings could not have been raised in a country where there did not exist riches.¹ It will not harmonise with the proverbial way of dealing with the subsequent condition of the country to say it, but yet I cannot but believe that, before the War of Independence, Scotland was a wealthy country for that day. We cannot strike the balance of the wealth of existing communities, even with the powerful statistical machinery now at our command. We know that they are rich or poor from the observation of many little incidents, perhaps of small moment in themselves. We get at the result by familiarity with these; and it is by such an amount of familiarity as their history records, and monuments afford us, that we can judge of the affluence of the people of past generations. There are many incidental matters that speak of comfort and wealth thus revealed to us in old Scots life. If we grant that the privileges and restrictions infesting trade were beyond what was needed even for such an age, yet they show us that there were riches going about, and that some persons wanted to have more than their due share in them. The assize of bread distinguishes wheat, "white and well bolted," from other kinds with lower privileges; and the burghal code lets us into the

¹ "The beautiful and somewhat singular architecture of the ruined church of Kelso Abbey still gives proof of taste and skill and some science in the builders, at a period which the confidence of modern times has proclaimed dark and degraded; and if we could call up to the fancy the magnificent abbey and its interior decorations, to correspond with what remains of that ruined pile, we should find works of art that might well exercise the talents of high masters. Kelso bears marks of having been a full century in building; and during all that time at least, perhaps for long afterwards, the carver of wood, the sculptor in stone and marble, the tile-maker and the lead and iron worker, the painter, whether of Scripture stories or of heraldic blazonings, the designer, and the worker in stained glass for those gorgeous windows which we now vainly try to imitate—must each have been put in requisition, and each, in the exercise of his art, contributed to raise the taste and cultivate the minds of the inmates of the cloister. Of many of these works the monks themselves were the artists and artisans."—Innes's Sketches, 197.

secret that there was white bread and brown or grey.¹ In the regulations for killing and curing meat it would be difficult to find any principle of philosophical legislation; but they reveal to us abundant food and lordly tables. The fleshers, or butchers, are to keep good flesh—beef, mutton, and pork—after the ordinance of the good men of the town, and to expose it openly in their windows, that it be seep of all men. They are to serve the burghesses in killing time—that is, from Martinmas to Christmas; and while so at work, are to board with the burghesses' servants. They are liable to penalties if they mismanage the meat.² A butcher was not permitted to be a pastrycook.³ Among matters for inquiry and regulation by the Lord Chamberlain, was whether cooks prepared their food in a fit state for human use.⁴ Such legislation is unknown at the present day, not by any means because the object has been attained, but because it is hopeless thus to attempt to effect it.

Scotland had the benefit of a complicated tariff, and we must count such an apparatus as a symptom of wealth and civilisation, even though a still higher civilisation denounces it. There is a good deal of trade in skins and peltry; and although this market might be in a great measure supplied from native produce, yet even under this head are names that speak of imported luxuries, as marten, beaver, and sable skins. There seems to have been an internal trade in fish caught chiefly off the northern coasts. We may infer that this commodity reached England, on finding that, in a purvey of provisions sumptuously ordered at the cost of King Edward of England for the entertainment of Queen Margaret and her court on their voyage from Norway, one item is a hun

¹ "Baxturis as bakis brede to sell sall bake quhyte brede and gray eftir the consideracion and pryse of the gude men of the toun. . . . And quha that bakis brede to sell aw nocht for to hyde it, bot sett it in thair wyndow or in the mercat that it may be opynly sauld."—*Leg. Burg.*, lx.

² *Ibid.*, lxiv.

³ "Pastillarius."—*Fragmenta*, St. i. 365.

⁴ *De Articulis Inquirendis*, St. i. 317.

dred fishes from Aberdeen. That they should have been supplied from Scotland to the place they were sent to seems the more strange that the beer for the occasion was bought in Norway.¹ There are duties on pepper, cumin, ginger, almonds, rice, figs, and raisins. The consumption of wine is a matter not so much of tariff as of internal regulation. Hostels or taverns turn up in the charters as a known established institution of the country. For some reason deemed sufficient, in a charter of William the Lion, it is forbidden that in the county of Perth there shall be a tavern in any town unless where there is a resident lord of the degree of knight, and even then one tavern must suffice.² A similar regulation applicable to the county of Aberdeen is found in the reign of Alexander II.³

What we can catch about the details of trade and agriculture is only in casual fragments. These are chiefly found in the chartularies of the religious houses; and although they were in close connection with places of trade, having under them some burghs with their harbours, and possessing property in others, yet naturally their title-deeds show more of the farming on their estates than the commerce of the towns. Whether or not their agriculture was of a scientific kind, it is certain that it was systematic and under regulation and supervision. It is possible to define the extent of the cottars' holdings, the produce and its nature, the rent or consideration given, and the arrangements for ploughing the fields.⁴ Wheat was grown in the

¹ Stevenson, Documents illustrative of the History of Scotland, i. 139. Under different circumstances we find King Edward's servants buying five hundred hard fishes of Aberdeen.—Ibid., 326.

² Vestigia, St. i. 76. The charter is in favour of the burgh of Perth, which is not included in the restraint, and it is supposed that the object was to give the burgh some monopoly in the tavern trade.

³ Ibid., 77.

⁴ "There is preserved a curious Rental of the great Abbey of Kelso of the end of the thirteenth century, which gives us some insight into the rural affairs of the monks. At that time, and probably always, they held a great part of their ample lands and baronies in their own hands, and cultivated them by their villeins from their several Granges.

"The Grange itself, the chief house of each of the abbey baronies,

fertile plains of Morayshire ; and it is noticed that there are rules for the protection of growing corn and hay meadows.

It is noted as a type of civilisation, that in the chamber-

must have been a spacious farm-steading. In it were gathered the cattle, implements, and stores needed for the cultivation of their demesne lands or mains ; their corn and produce, the serfs or carls who cultivated it, and their women and families. A monk or lay brother of the abbey superintended the whole.

"Adjoining the Grange was a mill, with all its pertinents and appearance and reality of comfort, and a hamlet occupied by the cottars, sometimes from thirty to forty families in number. The situation of these was far above the class now known by that name. Under the monks of Kelso, each cottar occupied from one to nine acres of land, along with his cottage. The rents varied from one to six shillings yearly, with services not exceeding nine days' labour. The tenants of twenty-one cottages at Clarilaw, having each three acres of land, *minus* a rood, and pasture for two cows, paid each two bolls of meal yearly, and were bound to shear the whole corn of the abbey Grange at Newton.

"Beyond the hamlet or cottar town were scattered in small groups the farm-steadings of the *husbandi* or husbandmen, the next class of the rural population. Each of these held of the abbey a definite quantity of land, called a husbandland. Each tenant of a husbandland kept two oxen ; and six united their oxen to work the common plough. The Scotch plough of the thirteenth century was a ponderous machine, drawn, when the team was complete, by twelve oxen. The husbandland was estimated long ago in the Merse as twenty-six acres, 'where scythe and plough may gang.' The husbandmen were bound to keep good neighbourhood, the first point of which consisted in contributing sufficient oxen and service to the common plough.

"As a fair specimen of the rents at which these tenants sat, we may take the barony of Bowden, which, I believe, is now the property of the Duke of Roxburghe.

"The monks had twenty-eight husbandlands there, each of which paid 6s. 8d. of money rent ; but to this were added considerable services in harvest and sheep-shearing, in carrying peats and carting wool, and fetching the abbot's commodities from Berwick. These stipulations are exceedingly precise, fixing even the service, in which the husbandman was to have his food from the abbey, and where he was to maintain himself.

"In the whole catalogue, no service is imposed on women except harvest-work ; and I believe agriculturists will agree that we have a still more decided proof of advancing civilisation in the fact, that at the period of the rental the whole *services* were in the process of being commuted for money.

"Above the class of husbandmen was that of the yeoman, or bonnet-

lain's books there is a charge for a gardener at the king's castle at Forfar;¹ and in a document of the year 1261 one pleads a right to a garden in Morayshire, whence pot-herbs were in use to be supplied for the king's table when he dwelt in the castle of Elgin.² Forty-two years later, when King Edward is in possession of Scotland, the Dean of Elgin beseeches him for a grant of oak-wood from a neighbouring forest, that he might rebuild certain houses, and the enclosure of his garden, destroyed by the conquering army.³ Early in the War of Independence there is a claim for damage by the English army on the estates of the nunnery of Coldstream, and of this one item is for the Pomer or orchard, which yielded the value of a hundred shillings annually beyond the fruit consumed by the house.⁴

Roads of various kinds are referred to, and the vehicles

laird, as he is now called in primitive parts of Scotland. Such an one was that Hosbernus, whom Abbot John of Kelso styles '*homo noster*'—'our man'—and who got a half plough of land in heritage and perpetuity in Middleham, and became the liege vassal of the abbey, paying a *reddendo* of eight shillings, and giving certain services in ploughing-time and harvest. He no doubt paid for his hereditary right to the lands, and felt himself much above the husbandmen, whose title was precarious. . . .

"The monasteries of Teviotdale had necessarily a great extent of pasture-land; and the minute and careful arrangement of folds on their mountain pastures for sheep and byres for cattle, and of the lodges or temporary dwellings for their keepers and attendants, shows that they paid the greatest attention to this part of their extensive farming. But the immense number and variety of agricultural transactions, the frequent transference of lands, the disputes and settlements regarding marches, the precision and evident care of leases, the very occurrence, so frequently, of the names of field divisions, and of the boundaries between farms, settled by King David in person, show an enlightened attention and interest in agricultural affairs, that seem to have spread from the monastery and reached the whole population during that period of national peace and good government, which was so rudely terminated by the War of the Succession."—Innes's *Scotland in the Middle Ages*, 138-140, 147.

¹ Innes's *Scotland in the Middle Ages*, 124.

² *Vestigia*, St. i. 89, 90.

³ Documents illustrative of the History of Scotland, by Joseph Stevenson, ii. 451.

⁴ *Ibid.*, 31.

which traversed them.¹ Bridges are mentioned, but not so as to give us any exhaustive list of them. There was a bridge over the Forth, spoken of in the laws as the junction-point between Scotland proper and Lothian. There was a bridge over the Tay at Perth, over the South Esk at Brechin, over the North Esk, over the Spey, and two, if not three, bridges over the Dee.²

These are doubtless narrow facts to draw a general conclusion from, and it is not easy to communicate that general impression which the investigator carries with him after rummaging unmethodically among old documents. It would be less satisfactory, however, were we to rely solely on the chroniclers writing after the war, who, seeing around them much poverty and misery, drew a glowing picture of the country's happiness and prosperity before the days of the disputed succession. These reminiscences have a mournful pathos, which goes much nearer to the heart than the ordinary laments for the departure of the

¹ "Roads appear to have been frequent, and though some are called the green road, *viridis via*, and by other names indicating rather a track for cattle, others, bearing the style of 'high way,' *alta via*, 'the king's road,' *via regia*—*via regalis*—and still more, the caulsey or *calceia*, must have been of more careful construction, and some of them fit for wheel-carriages. We find agricultural carriages of various names and descriptions, during the thirteenth century—*plaustrum*—*quadriga*—*charde*—*carecta*—*biga*—used not only for harvest and for carriage of peats from the moss, but for carrying the wool of the monastery to the seaport, and bringing in exchange salt, coals, and sea-borne commodities. The Abbey of Kelso had a road for waggons, to Berwick on the one hand, and across the moorland to its cell of Lesmahagow in Clydesdale. A right of way was frequently bargained for, and even purchased at a considerable price."—Scotland in the Middle Ages, 146.

² "If we reflect how few of these survived the middle of the fourteenth century, and how long it was, and by what painful efforts, before they could be replaced in later times, we may form some idea of the great progress in civilisation which Scotland had made during the reign of William and the peaceful times of the two Alexanders. We do not know much of the intellectual state of the population in that age, but regarding it only in a material point of view, it may safely be affirmed that Scotland, at the death of King Alexander III., was more civilised and more prosperous than at any period of her existence, down to the time when she ceased to be a separate kingdom in 1707."—Innes's Sketches, 157, 158.

good old days, since there is fact and reason for the lamentation. It is perhaps nowhere more touchingly rendered than in a piece of very simple verse, repeated by one of the old chroniclers, and deemed the earliest specimen of rhymed literature in the Scots tongue.¹

A glance through the country's subsequent destinies will at least harmonise with the belief that it was opulent at the outbreak of the War of Independence. It was inhabited by the same race, who, since peace with the great neighbour began, has become what Scotland now is. If we look back to the year 1290, we shall find that there had been a long period of tranquillity, in which the country had been consolidating itself. The one considerable war-like affair—the battle of Largs—was merely local. Above all, there had been peace with England for upwards of a hundred years—ever, in fact, since the captivity of William the Lion. Such opportunities for progress and civilisation never came again to the country until the union with England, and after that the subsidence of the elements of strife had to be waited for before the country had a fair field for the development of its energies. From such considerations as these, it does not absolutely follow that Scotland, afterwards so poor, was an affluent country at the end of the thirteenth century; but the considerations are at least in harmony with the material facts tending to such a conclusion.

¹ " Quhen Alysandyr our kyng was dede,
That Scotland led in luv and le,
Awaye was sons of ale and brede,
Of wyne and wax, of gamyn and glé.
Our gold was changyd in-to lede,
Cryst borne in-to virgynyte;
Succour Scotland and remede,
That stad is in perplexytè."

Andrew Wyntoun, who has preserved this for us, was not a political economist, and thinking he must give reasons for the change, found them in the wise policy of King Alexander, who brought a great breadth of land under plough, so that "corn he gart be aboundand," and hence it was so cheap that

" A bolle of átis pennys four
Of Scottis monè past noucht oure;
A bolle of bere for aucht or ten,
In comowne prys sauld wes then;
For sextene a boll of quhetes."
—Cronykil, i. 401.

CHAPTER XVIII.

THE DISPUTED SUCCESSION.

NARRATIVE RESUMED—DOUBTS ABOUT THE DEATH OF QUEEN MARGARET—A PRETENDER IN NORWAY BURNED AT THE STAKE—KING EDWARD AND HIS POSITION—COMMUNICATIONS OPENED WITH HIM—THE PREPARATIONS FOR THE ASSEMBLAGE AT NORHAM—THE ASSEMBLAGE AND ITS ELEMENTS—THE NOTARY PUBLIC—KING EDWARD'S ADDRESS—THE ASSERTION OF SUPERIORITY—THE ADJOURNMENT—NOTICE TO THE CLERGY, NOBILITY, AND COMMUNITY TO PUT IN ANY OBJECTIONS THEY HAVE—HOW THE NOBILITY AND CLERGY HAD NOTHING TO SAY, AND THE COMMUNITY WERE NOT LISTENED TO—THE ROLL OF COMPETITORS—EXCEPTIONAL CLAIM OF FLORENCE, COUNT OF HOLLAND—ALL COMERS HEARD—THE NARROWING OF THE LEET—THE COMPETITORS FINALLY LIMITED TO BRUCE, BALIOL, AND COMYN—THEIR GENEALOGIES AND CLAIMS AS DESCENDANTS OF THE EARL OF HUNTINGDON—THE MEETINGS AND DISCUSSIONS—THE METHOD OF PACKING A JURY FOR THE DECISION—ADJOURNMENT—DOINGS APART—EXAMINATION AND REMOVAL OF RECORDS—RETURN OF PRECEDENTS ORDERED.

LET us now return to the narrative at the point where we left it—the death of the young Queen of Scots on her way from Norway. The announcement of so portentous an event, through indistinct rumours, naturally caused men to talk and doubt. There was none of the solemn detail that might be expected to attend on a royal death, even though less heavily laden with a perplexing future. We are not told of any who were present—of the disease or its progress—of the spot where she died or the place where she was buried. The time of the death is only inferred to have been in September, because the first rumour of it is uttered in the famous letter of Bishop Fraser, presently to be noted, the date of that letter being the 7th of

October. To account for this mysterious silence in Scotland, it may be sufficient to remember that Orkney was then a distant province of a foreign country, and was unlikely to have direct communication with Edinburgh. On the other hand, the annals of Norway are at this period shadowy and imperfect. The project of the marriage has no place in them—they do not record her setting out on her voyage, or the names of her attendants, and they are equally silent as to her death. What the Scandinavian historians of later times can gather about the whole tragedy is from the abundant diplomatic records preserved in England; and when in these are seen the names of certain persons commissioned by King Eric to adjust the affair of the marriage, the Scandinavian historians have to content themselves with the supposition that some of these may have been the companions of her journey.

But ten years afterwards, Norway was strangely aroused to inquiry about the unremembered event. A woman came from Leipzic who proclaimed herself to be the daughter of King Eric and the lost Queen of Scotland. She said she had been followed to Orkney, and kidnapped and sold; and she gave circumstantiality to her tale by naming as the perpetrator a woman of high rank—Ingebjørg, the wife of Thore Haakonsson. Like Simnel, Warbec, and other more recent claimants, she secured an audience and a following. King Haco, who had succeeded his brother Eric, took up her pretensions as a serious affair of state. She was tried as an impostor, and sentenced to death by burning. The sentence was executed at Bergen, and it is told that on her way to the stake she held to her story, and said she then remembered how, when a child, she had been at that very port with her father, King Eric, when she sailed for Scotland. The end seems to have excited popular belief in her story, and it comes down with traditions of a cruel martyrdom, commemorated in the dedication of an expiatory chapel. The whole affair has left on Scandinavian history a shadow of doubt, in the possibility that the child might have been spirited away by some one of those so deeply

interested in her disappearance ; and consequently, that it may be an open question whether the royal line of the Alexanders really came to an end until the consummation of this tragedy in the year 1301.¹

It is in vain now to speculate on the future that would have been for Scotland had Edward II., King of England, and Margaret, Queen of Scotland, reigned together as man and wife, and left offspring. The position of King Edward was changed with everything else. The destinies of Scotland were no longer a matter for his paternal anxiety. In whatever he had done regarding Scotland, suspicious though the Scots might be, he had the legitimate purpose that he was guarding the interests of his niece. Even while there was no stronger tie, he was her nearest relation on this side of the North Sea, and bound to protect her interest from a formidable body who set covetous eyes on her inheritance. He acted the part of the kind parent, down to a care for the comforts of her voyage. Besides sending commissioners or ambassadors to represent him in the conduct of the preliminary arrangements, he freighted a vessel from Yarmouth with a cargo that must have afforded means of sumptuous living to the young queen and her followers. The same dry memorials—accounts rendered for moneys paid for the King of England—show that he had costly gifts of robes and jewellery set apart to grace the reception of his son's bride.²

¹ *Det Norske Folks Historie fremstillet af P. A. Munch*, vol. iv. pt. ii. 192-198, 344-348 ; and see *Torfæus*, *Hist. Nor.*, iv. 464 ; *Annales Islandici*, 179. All that can be found about this strange story tends more to the excitement than the satisfaction of curiosity, and it presents an interesting point for archæological inquiry from this side. In the accounts from the Scandinavian side there are entanglements in the shadowy references to another Scots alliance by Eric. In 1293 he married Isabella Bruce, a daughter of the competitor with Baliol. They had a daughter named Ingeborg.—*Torfæi*, *Hist. Norw.*, iv. 385 ; *Munch*, vol. iv. pt. ii. 280.

² *Stevenson's Documents*, i. 139-142, 186. It would seem, from expressions in these accounts, as if King Eric had been expected to accompany his daughter. It would also appear that the vessel containing the stores was to bring them over.

When these and suchlike matters of trifling concern were overshadowed by the gloomy end, what became evident as the predominant tendency of events was, that they had concurred with wonderful precision to throw the fate of Scotland into the hands of the King of England, and all men who knew anything about him knew that he was not a man to let slip his opportunities. At so strange and exciting a juncture in history, the chroniclers are naturally garrulous about such matters as the apprehensions of the people of Scotland and the temper and demeanour of King Edward. Such notices are unsatisfactory at all times; and where we have a deal of matter of the most instructive and emphatic kind preserved in the Norman records of the period, there is not even the ordinary temptation to repeat them. In fact, we know at this day much more about the things done, and even the motives of those concerned in them, than any of these chroniclers did, if we may except those who were admitted to a knowledge of certain secrets in order that they might do services by forgery or falsification—and there is not much to be relied on in the writings of this class. It is proposed, therefore, in the following statement of the events which placed a king on the throne of Scotland, to rely entirely on the testimony of authentic documents standing on record.

Before going into these events, however, it is proper to note in passing a domestic calamity befalling the chief actor; it is of moment, for it appears to have postponed the opening of the drama. Just about the time when the news of the death of the infant Queen of Scotland arrived, Edward was at the deathbed and the funeral of his wife, Queen Eleanor. He left to the world more than one noble memorial of his sorrow for her loss, and there is little doubt that they represented real grief. She was the partner of his perilous life in the Eastern wars, as well as of his pomp and power at home. It is seldom that from the records of royal unions we can carry away the impression of deep-rooted attachment, but it seems to have been so with King Edward and Queen Eleanor. There was a congeniality in the high spirit with which both were endowed;

and the qualities that made the great commander, the subtle politician, the unscrupulous usurper of national rights, the cruel tyrant in conflict with his fellow-men,—are not by any means inconsistent with domestic affections deep and tender.

To return to the revelations of the records. The first document of the series has given opportunity for much criticism, and invites more. It is a letter from William Fraser, Bishop of St Andrews, one of the Guardians, addressed to King Edward. It tells him of the rumour of the death of the young Queen Margaret—a rumour not yet confirmed, and which the writer fervently hopes to find ultimately contradicted. The rumour came, it seems, while the Estates were sitting to receive the answer of the king to the refusal to give up the fortresses to him. The bishop tells, as a significant occurrence, that Bruce had not intended to be present at that meeting, but did come, and with a large force, on hearing of the rumour. What his ultimate intentions might be the bishop professes not to know; but if it be that the queen is known to be really dead, he beseeches King Edward to approach the border, so that he may give comfort to the people of the country, obviate bloodshed, and help the faithful of the land to raise to the throne the man who has the proper title. It is shown that this must be Baliol; and there are some doubtful expressions, which some have interpreted to mean that even he should only be promoted if he shall conform to Edward's policy.¹

It is very likely that the writer of this letter wished to make favour with the great king; but it is rather stretching interpretations to say that it imported the bishop's betrayal of his country, in an invitation to Edward to come and conquer it. The English king, as we have seen, had stood high in the confidence of those who represented public feeling in Scotland as a powerful and magnanimous neighbour, and the death of the young queen was, on the face of affairs at least, a calamity to him as well as to Scotland. It appears, however, that the bishop stood alone,

¹ Litt. et Autogr. Edw. I., in Tur. Lond.; Fœdera, i. 741.

or nearly so, in at that juncture welcoming the intervention of Edward. Perhaps the confidence the others had in his disinterested kindness as a neighbour had been shaken by the mission of Anthony Beck and the demand of the fortresses. At all events, on the records we find nothing farther in the shape of an invitation from Scotland to settle the affairs of the succession. If an invitation so meagrely sanctioned as this was worthy of being placed on solemn record, we may believe that any of a wider character would have been carefully preserved. None exist, and none are referred to in the abundant documents which do exist; and this is the more noticeable, as the chronicles tell how the community of Scotland invited King Edward to be arbiter among the competitors for the crown, and he, treacherously taking advantage of the opportunity thus afforded to him, laid his plots for the annexation of Scotland. He was prepared to take his own steps without any invitations or persuasions, and, seeing his way before him, went to work with great deliberation.

The next document is dated on the 16th April 1291, and is a summons to the barons of the northern counties of England to attend their king at Norham six weeks after Easter, or on the 3d of June. Among the English barons thus summoned stand the names not only of Baliol and Bruce, between whom lay the real contest for the crown of Scotland, but also of the subsidiary claimants, Comyn and De Ros. Were there any extant document calling on representatives from Scotland to be present, it would be interesting to note its terms, but there is none. In a writ, however, afterwards asking the Scots who were present to attend a meeting on the south of the Tweed, it is mentioned casually and courteously that they had attended at King Edward's request.

The meeting was held at the appointed time. King Edward with his advisers, and a body of nobles and prelates, were there; so were the greater part of the candidates for the crown of Scotland, with their supporters. There may also have been present some who rather represented the Estates of Scotland than any competitor, in a miscellaneous assemblage of persons, lay and clerical,

from England and Scotland.¹ There was present a personage of a very lofty position, understood to separate him from all the great interests at stake, in order that he might, standing apart, be able to perform an important function, which connected the imperial system of administration with the feudal. This was Johannes Erturi de Cadomo, Notary Public of the Holy Roman Empire, who minuted the events as they occurred, and whose record of them, written with his own hand and properly certified, was not to be questioned by baron, prelate, or monarch. Lest there should be any suspicion of slovenliness or inaccuracy getting into the narrative, he takes care, from time to time to repeat that what is said is attested by him, Notary Public.²

And so this assembly proceeded to transact its momentous business. King Edward brought with him an address, which was delivered in Norman French by his chief justice Roger Brabazon. It set forth that the king had been touched by the condition of Scotland, deprived of her natural rulers by a succession of calamities, and involved in great perplexities, and that he was influenced by affectionate zeal for one and all of the community, who looked to him for peace and protection. So he had asked the meeting to assemble, and had himself come to meet them from distant regions, feeling that, as Superior or Overlord of the kingdom, it lay with him, in virtue of

¹ "Multisque etiam popularibus tam clericis quam laicis regnorum Angliæ et Scotiæ."

² Sir Francis Palgrave says: "The roll exhibits extraordinary care in the manner in which it is made up, being written throughout in a very bold and legible character, by the own proper hand of John of Caen or de Cadomo, sometimes calling himself, according to the style of the Papal Chancery, *Johannes Erturi* [*i. e.*, *filius Erturi* vel *Arthuri*] *de Cadomo*, who subscribes his 'sign' or *paraphe*, and which 'sign' is also affixed athwart the junctions of each of the membranes of which the roll is composed. This last authentication is added for the same reason that a testator now adds his signature at the foot of each sheet of a will. And the whole document was drawn up under the inspection of Master Henry de Newerk and of Sir Roger Brabazon, thereunto specially assigned by the king."—Documents and Records, Introd., liv, lv.

such his superiority and lordship, to do justice to all, and, putting an end to discord and dissension, to restore peace and tranquillity to a distracted country. There is next an assurance that he shall take nothing unjustly from any one, nor refuse, delay, or impede justice to any one; but as Superior or Overlord of the kingdom do ample justice to each and all. Then follows the concluding clause, which was no doubt the object of anxious and thoughtful adjustment. It was evidently framed on the policy, that it would not be safe to act instantly on the claim of superiority as a right known and admitted on all hands. It therefore, in a form of peculiar courtesy, desires that, for the facilitation of business, and that he may have the benefit of their assistance in transacting it, those present shall do him the favour to acknowledge his right as Superior or Overlord.

It is then explained that the reader of this document in Norman French took pains to render its purport intelligible to all; whereupon, as the record further bears, the Scots portion of the audience requested time to consult their fellow-prelates and nobles, and the community of the kingdom, before they made answer to this demand. Three weeks were allowed; at the end of that period all were to reassemble at Norham. A distinct answer was to be given on the question of the Superiority, and all who opposed or questioned it were to produce the documents or other evidence on which they founded their opposition or dubiety.

This meeting was to be on Scots ground, whether to assure the Scots who joined it that they were not under coercion, or for some other reason; and the record, with its usual precision, tells that it was held in the open air in a meadow by the Tweed, opposite to the Castle of Norham, the place of the previous meeting.¹

¹ "Prope flumen de Tueda, ex opposito castri de Norham, in area viridi sub divo." Looking at the massive ruins of Norham, one might imagine it selected as the centre of these transactions, showing to the assembled Scots a visible symbol of the terrible power arrayed against them. It was then freshly built, and endowed with those new elements of resistance and destruction introduced by the Norman kings,

Here King Edward's speech was read by the Bishop of Bath and Wells. The preamble displayed the unhappy condition of Scotland, and the goodness of him who came to the rescue, to some extent in the terms used in the previous speech, but with a very distinct increase of colouring, and in a much more affluent flow of words.

After the eloquence came the critical practical point. The bishops, prelates, counts, magnates, and nobles of Scotland had been invited to bring forward whatever they could to impugn King Edward's rights of superiority over Scotland, but nothing to that effect was proffered, exhibited, or shown by them.

After this follows a statement of moment. The Community—the *Communitas*—had within the three weeks given in some answer in writing, but it was not to the point. Though it did not seem to King Edward and his advisers to be to the point, yet would many people at the present day like to know what it was that the community of Scotland had to say against King Edward's demand when the nobles and prelates were silent. It would have been interesting, also, had the momentous occasion on which this body had acted, while the other orders of the constitution remained dormant, given occasion for some explicit knowledge of the men who were the "community." If the term had been new, and used on this occasion only, there would be room for question whether it was one of much import. But it had been one of frequent use in documents expressing the national will. It appears where its import must have been weighed by Edward himself—in the documents expressing the will of the Scots realm in the matter of Queen Margaret's marriage. Nay, the fact of its occurrence in these had to be emphatically repeated by Edward himself; for, in announcing to King Eric the consent of Scotland to the union, he names the community as one of the bodies who pledged it.¹ The cas-

which were the wonder and terror of the day. Nothing of the kind existed within Scotland, but there it stood close on the edge of the Tweed—so close that a stone might have been pitched from England into Scotland by a catapult on the battlement.

¹ *Custodes Magnates Prælati ac tota communitas prædicti Regni*

ual revelation that this "community," however constituted, had spoken, and that what it said was suppressed, becomes an important feature in the history of Edward's claims. The Great Roll of Scotland, as published in all the editions of the *Fœdera*, says nothing about the plea of "the community." This shows that, if the notary who attested all the proceedings kept a note of this, it was excluded from the roll deposited among the records of the crown in England; and that, as no one can question, with design.¹ At all events, we now know the fact that some answer was made on the part of Scotland to King Edward's assertion of feudal superiority. That this fact has but recently come to light is only too characteristic of all our means of knowing the truth in the great question it bears on. Transactions are profusely recorded, as if for the purpose of courting all inquiry into doubts or difficulties that might affect conclusions, yet one ever feels throughout all this candour that the truth is to be found somewhere behind, and that the abundance of punctilious record is devised to conceal it.²

Scotiæ unanimi et expressa voluntate sua, suum præbuerant jam consensum.—*Literæ Regis Angliæ, Erico Norwagiæ Regi de Papali dispensatione obtenta et de adventu Margaretæ filiæ suæ, Fœd. ii. 731.* The "communitas" of the Latin used in Scotland is converted into "commune" in the Norman French of the English scribes.

¹ Sir Francis Palgrave has preserved a curious little personal matter in which the king and the notary are concerned. The notary prefers a petition to the effect, "That he has by him many notes and remembrances of important matters concerning Scotland, which cannot be completed by any one but by himself. But during the last six years he has been so hindered and *riotted* at law by the Archbishop of Canterbury, that he has not been able to attend to the same, and he prays that the king may give order thereupon. The concluding portion of this petition rather tends to the supposition that Master John thought he had a better chance of succeeding in defeating the archbishop by the king's intervention; than by the justice of his own cause."—*Documents and Records, Intro.*, lvi, lvii.

May it not also tend to the supposition that Master John had it in his power to do service in his way of recording the transactions, and that it would be good policy to treat him well?

² For this important contribution to history we are indebted to the version of the Great Roll in the chronicles of St Albans, elsewhere noticed more at length. The restored passage speaks for its own

All preliminary questions being thus cleared off, King Edward announced that he found his title undisputed, and intended immediately to proceed to business. Robert Bruce was then called on to state before the assembly whether he intended to prosecute his claim to the crown of Scotland in the court of King Edward, the lord superior. The record makes him state, with all the redundancy peculiar to the whole proceeding, that there, in presence of the prelates, nobles, and community, he finally and expressly acknowledges Edward, King of England, as Lord Superior of Scotland, and publicly agrees to plead his cause before such his superior, and abide by his decision.¹

authenticity by filling an obvious blank. In the Great Roll as it stands in the *Fœdera*, a reference is made to the Prelates, the Nobles, and the Community; but at the point where the result of the reference has to be recorded, it is only set forth that the Prelates and Nobles made no answer; nothing is said of the Community. As the passage stands in the *Fœdera*, it is—

“Et nihil omnino contra præmissa per episcopos, prælatos, comites, barones, magnates, et nobiles præfati regni Scotiæ proposito exhibitio vel ostenso. . . . Propter quod vobis episcopis prælatis,” &c. To these he intimates that, nothing having been brought up to impugn his right of superiority, he intends forthwith to do his duty as lord superior. The suppressed passage, which lies between the words *ostenso* and *propter*, is as follows:—

“Licet in dicto termino assignato nomine communitatis sæpediti regni Scotiæ, aliquis fuisset in scriptis data responsio; nihil tamen efficax fuit per communitatem eandem propositum, exhibitum, seu ostensum, quoad rationes et documenta memorati domini nostri regis quod ad jus superioritatis, seu directi dominii, executionis, seu exercitii, dicti juris, quod in præjudicio regno Scotiæ sibi competit infirmit aliquatenus vel enervet.”—Rishanger, 244.

It is elsewhere mentioned that this representation on the part of the Community which contained *nihil efficax* was put in French—a practice unusual in Scotland, though, as we have seen, it had been previously adopted in courtesy to King Edward. It is very significant that, on later occasions, when the silence of the parties interested is referred to as vindicating Edward's assumption, it is not stated that the Community were consulted—only the Prelates and Lords. This kept out of view a party to his transactions with whom King Edward was not inclined to deal, and removed the inconsistency in the Great Roll, where the question is put to three parties, and the result recorded as if it had been put to two only.

¹ It may serve as an instance showing how little one can trust the

Florence, Count of Holland, follows, and after him Sir John de Hastings, both repeating the same form, which was doubtless accepted by the others, although the notary seems to have contented himself with transcribing it three times over.¹ Then follow Patric de Dunbar Earl of

chroniclers in matters long before their own day, to find the equivalent for this transaction in the chronicle of Andrew Wyntoun, written about a hundred years after the event :—

“To Robert the Brows said he:
 ‘Gyve thou will hald in chef of me
 For evyr mare, and thi ofspryng,
 I sall do swa—thou sall be kyng.’
 ‘Schyre,’ said he, ‘sa God me save
 The kynryk yharne I noucht til have,
 But gyf it fal of rycht to me,
 And gyve God will thet it swa be,
 I sal als frely in all thyng
 Hald it as afferis a kyng.
 Or as my Eldrys be for me
 Held it in freast Reawtè.’
 Wyth this Robert past his way.”

—Wyntoun, ii. 19.

In the *Scotichronicon* (xi. 10) it stands thus: “Cui simpliciter respondit Robertus et dixit, Si prædictum regnum per viam juris et fidelem assisam adipisci valeam, bene quidem; sin autem, nunquam in servitutem redigam acquirendo mihi regnum præfatum, quod omnes reges ejusdem, cum magno tædio et labore, sine servitute, sub firma libertate hucusque servaverunt et tenuerunt;” and so in the other chronicles and the histories founded on them.

Such absolute inversion of fact is frequent at the period, and comes of a very obvious source. The name of Bruce became eminently popular in Scotland, and it became something more than a fashion to say and to think everything good of it. There are, in fact, two great elements of disturbance of the truth in the history of this period: the one arises out of the national quarrel, in which English and Scots writers each took the part of his country; the other comes of the division at home between the two parties—Bruce’s and Baliol’s. Bruce’s party have the last word in the dispute, and far the stronger part in it, since their hero and his country were victorious together before the Scots chroniclers began their work.

¹ The form was probably carefully prepared by a person learned in Norman feudalism, which was then more than three hundred years old, and had reached its prime. It is as follows :—

“Ad quæ dictus dominus Robertus de Brus finaliter et expresse, coram Episcopis, Prælatiis, Comitibus, Baronibus, Magnatibus, et Communitate, prædictis, et nullo contradicente vel reclamante, respondit, quod dictum dominum Edwardum, Regem Angliæ, in superiorem, seu directum, dominum regni Scotiæ publice recognoscit; et aperte concedit stare juri coram eo super jure successionis, quod

March, William de Ros, William de Vesci, Robert de Pinkeny, and Nicholas de Soulis. We are next told that John de Baliol, coming afterwards, put in his claim, which was admitted on the usual condition, and he is followed by John Comyn, Lord of Badenoch, who also is spoken of as a late arrival. These two appear not to have been present at the previous proceedings.

Here, then, were ten competitors for the succession to the crown of Scotland, who all accepted Edward as the Lord Superior of Scotland without hesitation. They had no doubt been dealt with beforehand, and knew exactly what they had to do. Much eloquence has been wasted on these men as the base betrayers of the independence and liberties of their country; but if we look at the surrounding conditions, nothing can be more natural than their conduct. To Scotland they were aliens, and they belonged to a class of aliens peculiarly offensive to the people, of whose evil wishes regarding them they were well aware. That some of them held great estates in Scotland is true, but it cannot be doubted that they would gladly have exchanged their holdings for equivalents elsewhere. In dramatic history, the policy of some of them can, by a little colouring, be rendered unchivalrous, if not base. They appeal to Scotland as ambitious of reigning over an independent kingdom—they offer that independence to King Edward as a consideration for the employment of his influence in their favour. No doubt they dared not, in Scotland, hint anything about vassalage to England. Whatever may have been privately known or hinted among those who could be trusted, such a condition could never take practical shape in dealings with the Scots Estates. To have any chance with them, the Norman courtier must make himself, as nearly as he could, a patriotic Scotsman. To Bruce, Baliol, and Comyn—the three who had a strong Scots connection, and large estates

sibi ad præfatum regnum Scotiæ competit quoquo modo; et etiam, ad petendum, respondendum, et recipiendum, ab eo, et coram eo, sicut a superiore et directo domino regni Scotiæ, ut præmittitur, complementum justitiæ in hac parte.”—Rishanger, 246.

in the country—serious and critical considerations must have thus opened. It is probable that none of them felt assured at first that King Edward would take the matter in hand, and that each looked solely to his territorial power in Scotland, with assistance from his English estates.

The whole face of things was changed to them when it was seen that Edward was in earnest, and determined to fight for supremacy in Scotland. In the instance of any one of them resistance was utter folly. With no real hold in Scotland, he could only forfeit his English estates, if no worse came of his opposition. Then they belonged to the English court, and looked to the English king as the fountain of promotion. It was only natural, then, that they should frankly agree to his terms, and accept his decision on their claims. Each of them was, of course, sufficiently conscious that an independent sovereignty was a more illustrious position than that of a feudatory; yet it may be questioned whether any one of them would have preferred the position of independent king, over so restless and imperfectly feudalised a state as Scotland, to the function of ruling the country as feudatory of Edward, with the power of England at his back.

This is perhaps a suitable place for a brief note of the nature of the several claims. It is true that two only—those of Bruce and Baliol—came up as of sufficient power to affect the external current of history. But we shall find that the procedure relating to the whole array of claimants, and to the individual position of each, affords curious glimpses into the politics of the age.

It was the obvious policy of the Lord Superior to welcome all comers. None came there who did not acknowledge his title; and every claimant who appeared with a following of supporters made a sensible addition to the number of influential persons who acknowledged and attested this title. The more thickly the suitors crowded to his court, the more their counter-claims entangled the proceedings into complexities that had to be patiently unravelled. The more protracted were the difficulties and doubts which taxed the experience and skill of the sages

of the common and civil law, the more fully did the whole process impress on all men's minds the reality of the Lord Superior's title and power. The jealous formalists of feudal procedure were careful at every step to announce the style, title, and prerogatives of the Lord Superior. When a new claimant appeared, the first thing he had to do was to record his acknowledgment of this great condition; and at every step onwards in the resumption of his pleadings he professed that he spoke to the Lord Superior of the realm of Scotland, and humbly entreated the king in that capacity to do him right. If the long-cherished object of the Norman kings of England was to be accomplished by fastidious adherence to feudal forms, and a patient hearing of the pleadings of all claimants, the Great Roll of Scotland should certainly have brought the question to an end.

It was not among those who were nearest in blood to Alexander III. that the contest ultimately lay. Their descent from the royal house was in all instances tainted with illegitimacy; and that they should have pushed their claims only shows that the Church had not yet absolutely established the rule that from her alone, and her ceremony and sacrament, could come the union capable of transmitting a right of succession to offspring.¹ The ecclesiastical power, however, had advanced since the days of Norman William. The Church was strong enough to refuse all ecclesiastical sanction or ceremonial to the crowning of a king the union of whose parents was not sanctified by the Church. The nearest of these claimants was Nicholas de Soulis, descended of the marriage of Marjory, an illegitimate daughter of Alexander II., to Alan the Durward. It has been already noted that Alan drew on himself, even in Alexander III.'s lifetime, a suspicion that by getting his wife legitimated at Rome he might make his family the next in succession to the throne. His descendant pleaded some sort of legitimation, but scarcely obtained a hearing for it. Among others of the same class were the Earl of March, William de Ros, William de Vesci, already men-

¹ See above, i. 419.

tioned, along with Roger de Mandeville and Patrick Galightly—all these were descendants of illegitimate children of William the Lion. The claim of Robert de Pinkeny was a degree more remote, as he professed descent from the father of William, Prince Henry, who did not live to be king. This was the stock of the legitimate claimants. Of these Florence, Count of Holland, claimed as the descendant of Ada, the sister of William the Lion. This claim had to yield to that of the male branch, the descendants of Ada's brother David; but we shall find that the Count of Holland pushed his case eagerly, and that his pleading discloses some very curious incidents of feudal organisation.

The way is now cleared for turning to the claimants among whom the competition actually lay. These were the descendants of David, Earl of Huntingdon, who was the grandson of King David by his son Prince Henry, and the brother of William the Lion.

We have seen how the earldom of Huntingdon in England was held by the King of Scots. In connection with the Treaty of Falaise, by which King William in his captivity acknowledged the feudal superiority of King Henry, there were several complicated transactions about Huntingdon in the way of forfeiture and restoration; the conclusion of which was that the dignity and estates became vested in David, brother of the King of Scots, and so were ever afterwards disconnected with the crown of Scotland.

Prince David united himself to a powerful English house by marrying Matilda, daughter of Ranulph, Earl of Chester. He went to the Holy Land under the banner of Richard of the Lion's Heart. According to the Chronicles, he took Acre for King Richard, and was afterwards the hero of a whole romance of adventures in shipwreck, captivity, and other perils.¹

¹ "As the Christian armie laie at siege before the cite of Acres, otherwise called Acon, it chanced that one Oliver, a Scottishman borne, was within the towne reteined in service among the Saracens; for being convict of felonie in his native countrie he was banished out of the same, and fled to the Saracens, remaining so long among them, that he had learned their tongue very perfectly, so that as then few knew

Margaret, the eldest daughter of Earl David, became the wife of Allan of Galloway, the representative of that line of half-independent chiefs which had been so sore an interruption to the aggrandising process of the Scots crown. Their daughter, Devergoil, was married to John de Baliol, Lord of Nyvell in Normandy, and of Harcourt and Castle Barnard in England. The great wealth of this house gave solidity to the elements of princely rank inherited by the Scots heiress. The lords of Galloway had been champions and benefactors of the Church within their own province, where they founded four monastic houses—Whithorn, Dundrennan, Glenluce, and Tongland. The enlightened munificence of their descendant the Lady of Baliol is testified in Baliol College of Oxford, founded by her when

what countryman he was. It fortuneth that this Oliver had one of the gates in keeping, on that side the towne where was but a single wall, without trenches, or anie other fortification. He happened by some good adventure to espie amongst the watch of those that were of the retinue of David, Earl of Huntingdon, one of his own kinsmen named John Durward, with whom of long time before he had beene most familiarlie acquainted; and incontinentlie he called to the same Durward, desiring under assurance to talke with him. After certeine communication, for that this Oliver had not as yet utterlie in his heart renounced the Christian faith, he appointed with Durward to give entrie at a certeine houre unto Earl David, and to all the Christian armie, upon condition that Earl David would see him restored againe unto his land and heritage in Scotland. The houre set Earl David came with a great power of men to the gate before rehersed, where he was suffered to enter according to appointment, and incontinentlie with great noise and clamour brake into the midst of the citie.”—Holingshed, i. 384.

The chronicle goes on to say how, in the tempest which imperilled the return of Richard and his followers in the Mediterranean, Earl David was cast ashore on the coast of Egypt and sold as a slave. There he was bought by certain Venetians, who took him home to their own city, where he was ransomed by English merchants. Before reaching home he was again storm-tossed, and, running for the Firth of Tay, he put in at a place called Alectum, which, in his thankfulness, he changed to Dei Donum, or the gift of God, whence it has ever since been called Dundee. It is to his thankfulness, and the fulfilment of a vow taken in his peril, that the chroniclers attribute his founding the Abbey of Lindores, on the south shore of the Firth of Tay. The scattered ruins show that its buildings were once magnificent.

she was a widow.¹ It was her son, and the great-grandson of Earl David, who was now a claimant for the crown.

Devergoil had a sister, Marjory, married to John Comyn, Lord of Badenoch. He also had princely possessions; and his race, of which there were many branches, formed altogether the most powerful baronial family in Scotland. He boasted too, but in a shape that has not distinctly come down to us, of descent from Donald Bain, a son of "the gracious Duncan," who for a brief space occupied the throne. Comyn was nominally a claimant for the crown. Had there been a scuffle for the succession, his chances of success might have been strong. But in the decorous and precise court of the Lord Superior he could plead nothing to the point but his descent from a granddaughter of Earl David, and this brought him immediately behind Baliol as the descendant of her elder sister. His claim, then, may be considered among the others taken out of the arena of the contest, and we must go back to Earl David to see where Baliol was to find his real competitor.

Earl David's second daughter, Isobel, as we have seen, was married to Robert de Brus, or Bruce, a cadet of Norman family, powerful among the baronial houses of the north of England, where we have met with them fighting against Scotland in the wars about Northumberland. This Robert, in addition to great estates in England, was Lord of Annandale in Scotland, which had been in the family for upwards of a century and a half, as the gift of King David. The competitor for the crown was a son of this marriage, a man advanced in years, and with a son in middle life, who had enhanced the fortunes and power of the house by marriage with the heiress of Carrick. He pleaded a special title on a transaction some fifty years old, which

¹ The charter of foundation by "Dervorguilla de Galwedra Domina de Balliolo" is No. IV. of "Facsimiles of National Manuscripts of Scotland," selected under direction of the Lord Clerk Register, Part II. "At the time of our charter she had been twelve years a widow, and was carrying on the education of her two sons at her new college—among them perhaps the unfortunate John, who already looked to the throne of Scotland, which afterwards, in right of his mother, he successfully claimed."—(Editor's Introduction.)

gave him a sort of parliamentary title—King Alexander II., when childless, having, as he asserted, named him heir to the throne before the assembled magnates and community, who accepted him as the person who was to reign over them if Alexander died childless.¹ The conditions had materially changed, however, since that transaction. He was then the only male descendant of Earl David; now there were several male descendants. The question then swept clear of this old business, and settled on the hereditary claims of the several candidates.²

¹ See above, p. 13.

² Though there is no better authority for this transaction than the statement of a competitor for the crown, who was not very scrupulous in what he said or did, yet it is natural to the circumstances. Between collaterals equally near in blood—the one female by an elder daughter, the other male, though by a younger—it was conformable with all the practice of European states that the male should have preference. When the question came up, after intermediate events which bade fair to supersede any practical occasion for solving it, the rise of a new generation made it a question between male representatives; and in almost every country in Europe at that time this would have made a serious difference in the elements for decision on the succession, whether that decision was to be made by a feudal lord, or, as it then was in Scotland, by the principal persons and community of the country.

This incidental plea of Bruce's is duly entered in the Great Roll as already cited. It comes out more fully in the papers about the competition for the crown, edited by Sir Francis Palgrave, in his volume of Documents illustrating the History of Scotland. In these documents the affair is twice stated; once when Bruce threatens that, if any step be taken by the guardians inimical to his rights, he intends to throw himself on the protection of the King of England; and again, when King Edward, as Lord Superior, heard him plead his case as a claimant of the crown. Bruce's statement is of a natural occurrence; he maintains that it was acknowledged by Alexander III., and appeals about it to the testimony of persons still living. Any record of it might have disappeared in the general loss caused by the confusions of the wars, without supposing that King Edward thought it worth his while to destroy it. Then, when Alexander II. had a son, and that son reigned and had a family likely to continue the succession, the adjustment of the succession among collaterals ceasing to be of moment might naturally enough be permitted to go with the other unimportant matters which dropped out of the National Records.

It is not easy in modern English to convey a notion of the technical formality of these Norman feudal proceedings. The nearest thing to

Bruce's position was, that he was descended from the younger daughter, but was nearer by a generation than his competitor Baliol, the descendant of the elder daughter. Here, then, lay the great question that was put at issue in

the impression of an actual perusal of them is to be found in the rendering of their meaning by Sir Francis Palgrave, who was a thoroughly congenial spirit, and their true interpreter to the present day. What follows is given as a specimen, being applicable to this stage of the proceedings. Bruce brings up the recognition by Alexander II., and Baliol meets it. Had Sir Francis been a great historical artist, he could not have put the hard formalities of the Lord Superior's court in better antithesis with the momentous interests at issue, and the memorable struggle in preparation, than in speaking of the king, who desired to make a settlement, having died seised of the kingdom in his demesne of fee and right, and that from him the right descended to one Alexander, his son and heir.

'Bruce states, that when Alexander II. proceeded in war against the Islands, he granted and ordained, as he who was best informed concerning his own blood or family, and by assent of the bishops and earls, and of his baronage, that, in the event of his dying without an heir of his body, Sir Robert Bruce, as the nearest of his blood, should be held his heir in the kingdom of Scotland : and a writing was made accordingly, and sealed with the seals of the king, the bishops, and the other great lords, and deposited in the treasury. And of this he prays that inquiry may be made by the baronage of the land, for of those who know the fact many are now living.

"The traverse or replication made by Balliol, as entered upon the roll of Norham, and also upon the notarial protocol, seems to show that the petition of Bruce there presented contained some further averments : for, in reciting this instrument, Balliol, after noticing that Bruce had alleged that Alexander II. made the recognition before his barons, proceeds to add, that Bruce also stated that Alexander III. made the same recognition, with the knowledge of Devergoil, the mother of John Balliol, who did not contradict the same. Balliol then proceeds to argue—cautiously adopting the forms of pleading and technical language of the English common law—that such recognition cannot avail, inasmuch as Bruce acknowledges that Alexander II. died seised of the kingdom in his demesne of fee and right, and that from him the right descended to one Alexander as his son and heir, who in like manner died seised thereof ; and therefore, by his own acknowledgment, he shows that Alexander II. did not die without heirs of his body. And the right of his kingdom was transmitted by his death to his heir, and thus by the recognition of Alexander II. (if it was made) no right could be acquired. The original replication of Balliol to the first petition of Bruce is extant ; it is much damaged, but we can collect that in its general import the argument was pursued in the same manner as in the replication recorded on the

the court of the Lord Superior. It is necessary, before going into it, to say that John de Hastings, Lord of Abergaveny, appeared as the descendant of Ada, the third daughter of Earl David. His claim from the beginning lay behind both Baliol's and Bruce's, but we shall find that the pleadings in it afford some instructive matter.

These, which may be called preliminary proceedings, occupied thirteen meetings in the year 1291—the first in May, the last in August. The record notes precisely each day, with the business transacted and the place where the meeting was held. The definition of the place of meeting in each instance is given with the precision acquired by lawyers, who do not profess merely to satisfy those who want to know the fact, but are prepared to baffle the enemy entitled to take advantage of every quibble which he can found on ambiguity or indistinctness. When business goes on in the Castle of Norham, it is within the king's chamber there. When there is an adjournment to the other side of the river, and to Scots ground, the place of meeting is not only described as a meadow on the margin of the Tweed, opposite to Norham, but the parish and the diocese are given. Of meetings held in Berwick, one is in the castle, and others are in the church of the Dominican Friars there, described as deserted.

Important business was transacted at the meeting held on the 3d of August. King Edward intimated his desire that the two competitors, Baliol and Bruce, should each choose forty men, while he should choose twenty-four, or a larger number if he thought fit. There is an indefiniteness, very unlike the rest of the record, in the functions of the persons to be so chosen: they are spoken of as if they were to be mixed up into a common body of referees to consider the whole matter at issue.¹ The arrangement

Norham roll."—Palgrave's Documents and Records, Introd., p. xxiii. xxv.

¹ "Qui omnes assignati et nominati, congregati in unum, in loco et termino per prædictum dominum regem statuendis, de jure cujuslibet prædictorum nobilium, jus in successione prædicti regni Scotiæ ven-

must have seemed not only just but generous, if it was taken up at the time as the English chroniclers speak of it. King Edward was so confident in the goodness of his cause that he left it to be disposed of by one hundred and four arbiters, of whom only twenty-four were named by himself, while eighty represented Scotland. How this anomalous body was worked we shall presently see. The lists of these "arbiters," as they are generally termed, are given in the Great Roll. It may be more instructive to see the part taken by those of them who accepted and acted, than to examine the lists themselves, which may contain the names of men not to be counted on. King Edward's twenty-four, of course, were his own prelates and great functionaries, with a few of the high nobles. One name on his list is special, and carries an appearance of earnest desire to walk by the law; it is entered as William of Kilkenny, Professor of the Civil or Roman Law.¹

It will be observed that, while ten claimants have been entered, only two, and those the two on whom the final contest fell, joined in this selection of "arbiters." It was not, however, intended that the others should be put out of court. King Edward did nothing without an object, and an object there must have been in this peculiar arrangement, which discussed a by-question between two claimants, leaving the final issue open to the whole. Perhaps the policy of the arrangement lay in this, that in Bruce and Baliol, and those they might bring with them, the Lord Superior knew whom he had to deal with personally; among a set of miscellaneous strangers, bringing their friends and supporters into the controversy, he might find troublesome people. Ostensibly there was a vindication of his course in this, that a judgment on the simple question, which of these two had the better title, would clear away a difficulty coming of an unfixed principle of law. It would settle whether the nearer descendant by

dicantium, cognoscant et discutiant, prout rationi et juri visum fuerit magis conveniens."—*Fœdera* (Record edition), i. 766.

¹ "Willelmus de Kylkenny, Juris Civilis Professor."

the younger child, or the more remote descendant by the elder, had the preferable title.

At this meeting the whole body of candidates, who as yet had only generally announced their claims, rendered them in technical form. In the court of the Lord Superior nothing could be admitted as understood fact, even in so large a public question as the succession to the crown of Scotland, and each must give the genealogical foundation of his claim. The cases so put in are exquisite pieces of draftsmanship, and might be models for the peerage practitioner or any other genealogical lawyer of the present day. That ancestor in actual possession of the crown to whom the claimant pleads the right of succession is brought distinctly out. His several lines of descendants, both those which have given successors to the crown and those which have not, are discussed successively; and as each is thrown out, the claim goes back again to the common ancestor until all are exhausted—some by the line coming to an end, some by disqualification, until the claimant comes out as the true representative. So, each having in terms of a formula put in his claim, the pleadings and arguments on which each founded in support of his own claim, and in demolition of other claims, come, as we shall see, at a later stage of the proceedings.

From this meeting on the 3d of August 1291 the whole business was adjourned to June 1292.

The Lord Superior had now in his hands what lawyers call a heavy case; and it cannot be denied that under his directions it went through its stages with all deliberation, receiving a due amount of skilled attention—all recorded so fully that we can even now trace in the policy that ruled the whole, those aims which extended far beyond the mere decision of a legal or genealogical question. Before following up the history of this great litigation, certain public measures incidental to the adjustment of the right of supremacy may be mentioned.

The government of the country was in the hands of guardians, who had been appointed by the Estates. Edward did not wrest their authority from them, but, as Lord Superior, he renewed their appointment as guardians, add-

ing Brian Fitz Allan to their number. He appointed the Bishop of Caithness to be Lord Chancellor of Scotland, with a certain Walter de Amundesham as his colleague in the capacity of Keeper of the Seal. The old seal of Scotland was broken into four pieces, and a new seal was made adapted to the change of conditions. He took the oath of allegiance from all the Scots in attendance; but who these may have been, other than the supporters of the candidates, with some of whom we may hereafter meet, it is hard to tell. He issued an intimation to his Chief Justice of England, that as the two countries were now, by the blessing of God, united, his writs should henceforth be current in Scotland as well as England.

The Lord Superior made an early demand that the guardians should give up the national fortresses to him. This was conceded as a matter of course. We have the orders by which he called upon each governor to give up his charge, and these orders court criticism. In the preamble he does not make display of his office of Lord Superior as in the documents which were not to go to Scotland. He is Edward, King of England, Lord of Ireland, and Duke of Guienne; and he demands delivery of the fortress by assent of the guardians and of the several candidates, and only towards the conclusion does he briefly bring in his title of "Soveryn Seygnur."¹ The names of the superseded governors have a sound as Norman as the names of their successors; yet it is difficult to interpret the race or nation from such a sound, since the Norman manner of naming was the court style, and was imitated by all who claimed high rank. One governor, with a thoroughly Norman title, distinguished himself by a fastidious sense of military honour. Gilbert d'Umfravile, Earl of Angus, in command of the fortresses of Forfar and Dundee, said he had received his command from the Estates of the realm, and demurred to render it up to any other authority. King Edward humoured him by a solemn grant of indemnity for any consequences to be incurred

¹ Rot. Scot., i. 1.

by obedience to his command.¹ The guardians were commissioned throughout Scotland to exact the oath of allegiance to the Lord Superior. The instruction was general to require it from those who ought to render it, with special directions for the treatment of each case. Those who should come and swear were of course in their duty, but those who, coming, refused to swear, were to be apprehended; of those who did not come but excused themselves, the excuses were to be heard; and lastly, they who neither came nor proffered excuses were to be coerced. This swearing-in was to last for fifteen days, beginning on the 23d of July, and certain central stations were fixed where attendance should be given to put the oath.² How far effect was given to this order must have depended on many local contingencies.³ On the whole, the public measures taken by Edward during the progress of the great cause have a moderate tone—a tone as if he restrained himself from too suddenly breaking in upon the established order of things with his new title and its prerogatives; and in this specialty all the documents passing into Scotland have a very significant difference of style from those peculiar to his transaction with the claimants of the succession.

Among King Edward's actions before the meetings about the succession were resumed, there was one which probably drew little notice towards it at the time. It became notorious enough in after times, and has a conspicuous place in various narratives, where the shape it takes is, that Edward removed the ancient records of the kingdom of Scotland, carefully searching out all those which proclaimed the national independence and the supreme sovereignty of the crown. On the 12th of August he issued a commission to certain persons—John de Lithegreynes, William of Lincoln, and Thomas of Fisheeburn—to examine all kinds of documents in the Castle of Edinburgh,

¹ *Fœdera* (Record edition), i. 756.

² One of these is Inverness, which the foreign notary calls *Inthernez*.

³ Some of the homages so received are to be found in the *Ragman Rolls*.

or elsewhere in Scotland, which might be found to bear on the succession to the crown or on his own rights in reference to Scotland. As the persons who were to give access to the documents, the writ was addressed to Ralph Basset of Drayton, the Governor of the Castle of Edinburgh, who had just been appointed by Edward, to the Bishop of St Andrews, and to William of Dumfries, Keeper of the Rolls. There is a precept to the Chancellor of Scotland to pay the reasonable expenses of these commissioners, as being occupied in a matter peculiarly concerning Scotland; and their proceedings regarding the records passing through their hands are registered with thorough Norman precision. We have a minute of the depositing of a portion of these documents in the treasury of the Castle of Berwick, in which are set forth with all precision the names and titles of the eminent persons present on the occasion, the locking up and sealing of the box in which the documents were deposited, and an inventory of the documents themselves. There is another list of documents authenticated as having been given over by King Edward to John, King of Scotland, best known as John Baliol.

There seems no occasion for questioning the accuracy of these minutes and lists, or for supposing that Edward found anything so emphatically proclaiming the independence of Scotland that it would be his interest to suppress it. The records of a self-governing state do not set forth that it is independent of any other—such a declaration would only lead to a suspicion that it was not quite true. The only document in which the tenor of history would lead us to expect to find a specific declaration of the independence of the crown, is the revocation by King Richard of the admission of vassalage, extracted from King William when a captive at Falaise; and this document is not only fairly titled in the inventory so as to show its tenor, but has been carefully preserved to our own day so as to be published in the great collection of early English diplomacy.¹

¹ The careful commissioners notice the defective condition of the seal, as if to save themselves from any reflections on the matter :—

As to the other documents entered in the inventories, but not now to be found, the preservation of the old records of England has not been so well cared for that Scotland can complain of more than her share in the losses incident to a common negligence.

On the other hand, if we are to suppose that Scotland possessed a series of royal and parliamentary records, extending back through hundreds of years, and that it was the interest of King Edward to suppress such a memorial of ancient self-government and independent sovereignty, we shall suppose something extremely improbable. Some collections of old laws certainly were lost, and their loss is to be regretted.¹ In general, however, we may believe that the records followed the introduction of the Normans and their practices into Scotland, and that they were a humble imitation of what had been going on in England since the Conquest.

Such of the documents as may be counted state papers, affecting the interests both of England and Scotland, bear chiefly on the Scots claims upon Northumberland, and the negotiations with the discontented barons of England. Others there are which might have thrown desirable light on the feudal formalities by which the King of Scots endeavoured to stretch his authority over Galloway, the Isles, and the other outlying territories. But the bulk of the collection must have lain in papers revealing the practice of the tenure of property and the administration of justice through charters, inquests, assizes, and other records, many of them referring to merely private and local affairs.

“*Litera Richardi Regis, promissoria Regi Scotiæ quod restituet ei omnia jura sua. Sed vix apparet sigillum.*”

“*Charta ejusdem Richardi Regis de restitutione jurium et castro-
rum libertatum et literarum Regis Scotiæ.*”

¹ For instance : *Unus Rotulus de Antiquis Statutis Regni Scociæ. Unus Rotulus de Statutis Regis Malcolmi et Regis Davidis. Duo Rotuli de Legibus et Assisis Regni Scotiæ, et de Legibus et Consuetudinibus Burgorum Scociæ et de quibusdam Statutis editis per Reges Scociæ.* Though we have in some shape much of the substance of these burgher laws (see chap. xvii.), it would have been of moment to possess so early a version of them.

Of one thing we may feel assured, that nowhere did King Edward find any writings to help him in his claim of feudal superiority ; if he had found any, they would have doubtless been heard of.¹

King Edward sought assistance from records in another quarter, but not with much more success. The chronicles of events preserved in the ecclesiastical establishments have been often referred to in these pages. Naturally they chiefly abounded in the houses of the Regulars, who had the more leisure and quietness for such work ; but they were also kept in the chapters of cathedrals and other ecclesiastical colleges.² King Edward made a contribution to this class of muniments, by sending for preservation to several religious houses the proceedings relating to the succession to the crown of Scotland, as held in his own court as Lord Superior. Before doing so, however, he drew on these establishments for such assistance as their past records could give him. There are writs issued by him ordering returns, in some instances, of all that their registers or chronicles tell about the relations between England and Scotland—in others, of any information so afforded concerning homage by the King of Scotland to the King of England. Many of the returns made in answer to this requisition have been preserved. So far as the extracts they give from the chronicles belong to true history, it would be a vain repetition to give them here, because, so far as the author accepts them as true, they have found their share in the preceding pages. Out of the matter contained in these returns, and the chron-

¹ The commissioners' inventories, &c., above referred to, are to be found partly in the *Fœdera* and the *Rotuli Scotiæ*, and in Robertson's Introduction to the Index to the Charters (1798). The most authentic rendering of them, however, is in the "*Instrumenta et Acta de Munimentis Regni Scociæ*," in the first volume of the Statutes.

² Of the workshops of these chronicles—the "*scriptorium*" attached to each monastery, in which the scribes belonging to the house sat to copy whatever was enjoined them by superiors—an account will be found in Sir Thomas Hardy's Preface to the third volume of his '*Descriptive Catalogue of Materials relating to the History of Great Britain and Ireland*,' xi.

icles of England at large, a case was made out for the superiority of the King of England over Scotland, which can best be told afterwards in an account of the historical narrative in which King Edward brought the question under the consideration of the Papal Court.

CHAPTER XIX.

ADJUSTMENT OF THE SUCCESSION.

THE ASSEMBLAGE RESUMED—A NEW CLAIMANT: ERIC OF NORWAY—THE QUESTION LYING BETWEEN BALIOL AND BRUCE, AND BETWEEN THE DISTANT DESCENDANT OF THE ELDER AND THE IMMEDIATE DESCENDANT OF THE YOUNGER DAUGHTER—INDICATION OF A LEANING TO THE FORMER VIEW—CONTINUED PLEADINGS—RESOLUTION OF THE QUESTION INTO THE SHAPE OF LITIGATION FOR AN ESTATE—THIS ENCOURAGED BY EDWARD AS LORD SUPERIOR—THE COMPETITORS ADMIT ALL HIS CLAIMS, AND ARE READY TO DO HOMAGE—QUESTIONS OF PARTITION AND COMPROMISE OPENED AND PLEADED—PECULIAR CASE PUT IN FOR THE COUNT OF HOLLAND—THE JUDGMENT IN FAVOUR OF BALIOL—CEREMONIES OF HOMAGE—CEREMONIES OF INVESTITURE IN SCOTLAND—THE NEW KING'S UNPOPULARITY AND DANGER—QUESTION HOW FAR PUT UNDER RESTRAINT—LITIGATIONS APPEALED FROM HIM TO THE ENGLISH COURT—HIS HUMILIATION—A CRISIS.

ADJOURNED as we have seen from August 1291, the great business of the adjustment of the succession was resumed in the beginning of June 1292.¹ A new claim was then given in, which surely must have disturbed the gravity even of the decorous court of the Lord Superior. It was rendered by Eric, King of Norway, the son-in-law of Alexander III., and the father of the young queen who had died on her way home. He offers no explanation of any special Norse or other custom of descent on which he

¹ In the *Fœdera* the resumption is dated on 1st June, while the adjournment is to 2d June. Sir Francis Palgrave shows that this is the correct date. The 1st of June in that year was Trinity Sunday, and this was doubtless foreseen in fixing the adjournment (*Documents, Introduction, liii.*) So much for the precision of Norman recorders and of editors like-minded.

found, but simply asks the Lord Superior to award to him his daughter's kingdom, devolving on him by hereditary right.¹ Probably, hearing that suitors were welcome, he thought he might as well take his chance with the rest; unless, indeed, his object was to call attention to a secondary and more hopeful claim; this was for arrears of rents or revenues—what English lawyers call *mesne profits*. These he demanded for the four years since the death of King Alexander, on the double ground that he was executor to his daughter, and had been put to many charges and expenses concerning her. In addition to this, he rendered in the body of his claim an account for arrears of his wife's dowry. Whatever he may have made of the pecuniary matters, his claim to the crown was not pressed, and judgment went against him by default.

The auditors or arbiters—the eighty of Scotland and twenty-four of England—make their appearance at this meeting in a shape which has puzzled historians, and is not consistent with the place they were allowed afterwards to hold. On the face of the record in the Great Roll, it would appear that the king put it to the eighty from Scotland, and to them alone, to inform him on what law and customs judgment should be given.² The answer was one of utter confusion. From disputes among themselves, and the vast importance of the cause, they professed to be unable to make answer without more counsel and deliberation.³

They sought assistance from the twenty-four of England,

¹ "Ipsum regnum per mortem dominæ Margaritæ filiæ nostræ, olim dominæ et reginæ regni Scotiæ, sit ad nos pleno jure hereditario legitime devolutum." He makes his claim through "veros et legitimos attornatos et procuratores et nuncios speciales, nobilem virum Advenum de Hagr, et Magistrum Hugutio Plebenum plebis," &c.

² "Per quas leges et consuetudines sit ad iudicium procedendum?"

³ "Qui inter se super hoc diligentem habentes tractatum, concorditer responderunt, quod propter aliquas discordias adhuc inter eos existentes super legibus et consuetudinibus regni Scotiæ, quoad casum tam arduum, et retroactis temporibus inauditum, eidem domino regi consulere non audebant in facto prædicto, absque majori consilio et deliberatione pleniori."

but these, for some undiscoverable reason, were equally reticent, and would not commit themselves. The king then adjourned the meeting to the 10th of October, announcing that he would in the mean time push inquiries all over the world to get light for his guidance on this vexed question. We can only see in all this that there is something behind it which the record is intended rather to conceal than to explain.

When the proceedings are resumed at the adjourned meeting, the Great Roll of Scotland would leave us no better acquainted with the actual share taken in the discussion by the auditors; but we have information elsewhere of what they actually did.

It was still the policy of the Lord Superior to exhaust, in the special competition between Baliol and Bruce, the question between the nearer descendant by the younger daughter, and the more remote by the elder, before entering on the claims at large. And the first question was, By what law should the question be tried? By the Imperial, meaning the civil or Roman law, or by the laws and customs of England or Scotland?¹ We shall now see how the scheme of the hundred and four arbiters was worked. King Edward put the question to his own twenty-four, not collectively, but personally, in succession, as the votes are taken when the House of Lords sits as a criminal court, presided over by the Lord High Steward. None would admit the imperial law—any reference to that system always enraged the friends of the common law in England—and those who might think otherwise felt it prudent to keep their views out of sight. Most of the referees were quite clear that in an English court they could proceed by no other than English law; and a few sought refuge in the unmeaning compromise, that the law, both of England and Scotland, should rule wherever these agreed with each other. The next question was, Whether there was any specialty in the rank or dignity of this kingdom of Scotland that should exempt it from being

¹ "An per leges Imperiales seu per leges et consuetudines regni Angliæ vel regni Scotiæ?"

adjudicated upon like the other tenures of the realm? and all answered that there was not. On these two questions King Edward's own council of twenty-four were alone consulted. "Those of Scotland," as the persons selected by Bruce and Baliol were termed, had no opportunity of recording their opinion on these, which of all the questions put were the most eminently national in their character. Yet it was so managed that they too should appear to have had a voice. It was put to the claimants, Baliol and Bruce, and to the eighty of Scotland selected by them, whether they could show any cause why the kingdom of Scotland—a fief of the King of England—should be treated differently from earldoms, baronies, and other tenures. Under nice distinctions in the ways of putting the questions, the broad fact can be distinctly traced that the twenty-four of England were advisers or referees of the supreme judge, Edward himself, as to the judgment to be given, while the eighty of Scotland were merely the advisers of the two claimants as to the position they should take up as litigants—what they should admit, and what they should dispute. Accordingly the eighty are not heard in answer to the questions put; the competitors, Baliol and Bruce, give the answers. These are not very emphatic, but import generally the readiness of both to submit to such decision as their Lord Superior may adopt, one point only being urged with some emphasis—that the kingdom of Scotland cannot be partitioned among several heirs like a private estate.

Having thus in a manner felt the way towards finding a principle, by deciding what law it was to be sought for in, matters were ripe for fixing the principle itself; and the next question was, Whether the nearer descendant of the younger daughter, or the more remote descendant of the elder daughter, should be preferred? The answer, very neatly and distinctly put, was, that the progeny of the elder must be exhausted before that of the younger had any claim. This, as a necessary condition of a pure law of hereditary succession, rules to this day; and it is likely that the deliberations of the august body who assisted the Lord Superior did much to clear up the rules

of succession as an exact science. On the political bearing of the decision, however, the important specialty is that, as in the preliminary question, the English assessors only were consulted.

Taking the principle so established for his rule, King Edward then decided that, as between the two, and as the pleadings stood, John de Baliol had a preferable title to Robert de Bruce. It was then put to the eighty of Scotland if they had anything to say against this judgment. The forty selected by Baliol, when asked one by one, of course assented to it. When it came to the turn of those selected by Bruce, the first on the list—the Bishop of Glasgow—made some faint demur; he was in favour of the claims of Bruce, yet, in the shape in which it stood, he had nothing to say against the judgment; and the rest followed him in assenting. In fact, the decision did not put Bruce out of court or find for Baliol, since all parties were yet to be heard before a final decision.¹ What afterwards occurred may account for Bruce's acquiescence in the interim decision—he had more to hope for in pleading his cause before the Lord Superior than in contradicting him. The material feature in this discussion is, that while it went forth that the question of the succession was remitted to a hundred and four arbiters, eighty of them being of Scotland and twenty-four of England, the eighty of Scotland were allowed no opportunity of giving either a judgment or an opinion on any of the great questions brought to a decision.

Let us now look to the pleadings so far as they have come down to us, and try what instruction may be found in them. They are not to be confounded with the

¹ "Quod secundum petitiones et rationes ex utraque parte Roberti et Johannis monstratis, quas idem rex coram se et consilio suo cum magna diligentia inspicere et examinari fecit, Robertus de Brus non habuit jus in sua petitione ad regnum Scotiæ secundum formam et modum petitionis suæ. Et similiter dictum fuit dicto Johanni de Balliolo per prædictum dominum regem, quod quoad petitionem suam, idem dominus rex non potest ei respondere ad plenum, quousque alii petentes jus ad regnum prædictum Scotiæ, coram eo in curia sua fuerunt exauditi."

genealogical statements in which the competitors set forth their claims. These are precise and formal, while the pleadings in which each claimant supports his own case to the prejudice of the others are argumentative and discursive.

By far the most illustrious of these competitors—taking them by the estimate of the prevailing court politics of the day—was Florence, Count of Holland. He was the son of that William of Holland who is in the roll of the emperors, though his empire was short and uneasy. The emperor's wife was a Guelf, and otherwise he was connected with those houses which professed to derive their origin from a Roman stock, and looked on the Norman claimants—and their master, the Plantagenet himself—as modern upstarts, the representatives of successful Norse pirates. The connection of Florence with the Scottish royal family differed from that of every one of the other claimants. Ada, a daughter of Henry the son of King David, and consequently a sister of William the Lion, was married to a previous Florence, Count of Holland. Their great-grandson was William the Emperor, the father of Florence, the claimant.

The law of primogeniture had become so far distinct that the descendant of a sister of King William must yield to the claims of his own descendants, unless there were some specialty for excluding them, and the Count of Holland would leave the stage on the mere announcement of his claim, were it not that he attempted to found on some such specialties.

These are curious as exemplifying feudal usages, and they are in themselves peculiar enough materially to vary the monotony of the other claims.

He maintained that Earl David had committed felony, and that his descendants could not succeed to any right through him, being tainted by that remorseless ban of the English law—corruption of blood. As it was put in the pleading by J. de Wossemarmut, the attorney for the Count: "The before-named John de Balliol, Robert de Brus, and John de Hastings can demand no right to the realm of Scotland through the before-named David,

for this same David was a felon, as in respect of homicides, robberies, and arsons of towns and houses : and with banner displayed evilly and disloyally, the castles of his lord the King of England besieged, took, and levelled." The pleadings that have come down to us give no further clue to the occasion of these hostile acts by the Earl David against the King of England ; and from the tenor of history we must infer that David's felony was his fighting against England under his brother, William the Lion, before the Treaty of Falaise. But, for a reason shortly to appear, something more was necessary to open to the Count of Holland a title to that which could not go to Earl David's representatives. He entered this additional plea : Earl David had solemnly renounced his right of succession to the crown—had renounced it into the hands of his brother King William, in presence of the assembled Estates, and had seen it transferred to his sister Ada, the ancestress of the Earl of Holland. The feudal system discountenanced gratuitous renunciations. Its principle throughout was a doctrine of equivalents, and that any owner of a possession or prerogative had simply given it away, was a point not to be easily made out to the prejudice of his heirs. In this transaction, however, there was an equivalent. In consideration of the chances abandoned for him and his, he received an estate in possession, which was yet enjoyed by the descendants of Earl David's three daughters—Baliol, Bruce, and Hastings. This estate the foreign attorney for the Earl of Holland calls Gharirache ; it may now be identified as the district of the Garioch in Aberdeenshire, which is known to have been a domain belonging to Earl David's descendants.

Among many arguments stated against this plea, one does credit to the forensic subtlety of the day : the Count refuted his case by the mere statement of it. His ancestress Ada could only have right of succession as the sister of Earl David, and if he was a felon, his felony excluded his sister as well as his children. Then if Earl David sold his birth-right for this estate in Aberdeenshire, he sold what had already gone from him, and whoever might profit by the felony, the Count of Holland precluded himself from plead-

ing it. To this it was rejoined that the transaction occurred before the felony, and hence the reason for pleading it.

The Count had still farther and equally remarkable matter to state. He said the settlement of the crown on Ada and her descendants was adjusted in something very like a full parliament. "The said King William caused to be assembled all his baronage of Scotland, as well of bishops, abbots, and priors, as earls, barons, and other substantial men of the land. . . . And these the said king ordained, provided, and established, that, if he should die without heir of his body begotten, or if the heirs from him issuing should decease without heirs from them issuing, then they should hold Ada, his sister, as their lady, if she should be living; and if she should be dead, the heirs from her issuing." Thereafter the magnates assembled did homage, and swore fealty to Ada accordingly.

Baliol and Hastings of course denied this transaction; but, providing, as litigants well advised do, for its possibly being true, they said it went for nothing—it was a mere intimation to the tenants on the domain. If William had no power in his own person to alter the succession, these tenants on the domain could not give him such a power. So is met the only reference in the pleadings to the rights of the people of Scotland or of their representatives.

The pleadings of the illustrious competitors are not exempt from the prevailing suspicion that attaches to the statements of litigants generally. Almost every litigant exaggerates his case, and even as to the facts, if they are very telling and are ill-supported, it is necessary often to be sceptical. Most people will, perhaps, doubt the Earl of Holland's story, but some also have doubted, though with less provocation, whether Bruce adhered to truth in maintaining as he did that Alexander II., when afraid of dying childless, named him as his heir, and had the nomination confirmed by parliament. Upon this strong plea Baliol retaliated by charging Bruce with treason against the queen, in that he had taken up arms against her, and actually besieged and taken the Castle of Dumfries.

Bruce could refer to instances of collateral succession,

the latest and most distinct being that of Donald Bane ; but here his adversary had a story to give which would be very likely to tell with the Lord Superior. No doubt Donald Bane did usurp the throne left by his brother Malcolm, but Duncan, the son of Malcolm, went forthwith to William the King of England as Lord Superior of Scotland. On Duncan's death there was a second usurpation by Donald, but again King William, as Lord Superior, came to the rescue, ejected Donald by force, and placed the rightful heir, Edgar, on the throne ; and so had the succession ever since been kept in its proper line under the rule of the Lord Superior.¹

As the pleadings wear towards a conclusion, they have a tendency to break off from the great national question at issue, into the pressing of secondary personal claims and interests, the discussion of which yet throws some light on the political ideas and feudal notions of the day. As the tendency of the proceedings towards pure primogeniture becomes clear, and the other suitors see that this points to Baliol, they begin to devise plans for a share of the inheritance. Certain feudal estates both in England and Scotland belonged to the crown of Scotland, and these were divisible among heiresses, and should be inherited in shares by the descendants of Earl David's three daughters.

One of the claimants carried this hint a great way further. Whether it were Baliol, the distant descendant of the elder, or Bruce, the nearer descendant of the younger, who succeeded, John of Hastings, the descendant of the

¹ These pleadings are taken from the fragments printed by Sir Francis Palgrave in his Documents and Records illustrating the History of Scotland, who, conscious that the assertions about the active interposition of William Rufus, as Lord Superior, were falsehoods, makes this apology for the production of them : "Some might be acquainted with the events from written memorials ; to others they were known by general tradition or recollection. Baliol quoted them as he understood them, and as they were universally understood in Scotland."—Introduction, lxxxvi. There is no doubt that in Scotland at that time, reasonably or unreasonably, nothing that might impart any right of interference by the King of England in the affairs of the country was either "understood" or tolerated.

third daughter, must be postponed to either. He therefore pleaded that the estate—namely, the kingdom of Scotland—should be broken up and divided among the representatives of the heiresses. Bruce had at first contended that Scotland was a sovereignty and indivisible, but he now found it expedient to amend his claim, and put in for his third part of the succession, thus making common cause with Hastings. He was met by an objection not applicable to Hastings—his pleading was inconsistent; for whereas he had founded his original claim on the assertion that Scotland was a sovereignty and indivisible, he now asserted it to be partible, and claimed his share. It would be an utter misunderstanding of the spirit of these pleadings to suppose that Bruce was taunted with this as anything to be ashamed of. His change of position was as natural as the tactic of the litigant, who, having claimed the sum total of a fund, is content in the end to take a dividend of it. Baliol's objection to the entering of such a plea was purely technical: and Bruce held against him that it is every suitor's privilege to put in whatever plea is for his advantage, unless there be an absolute rule of practice against him; and here there could be no such rule, for when he pleaded the indivisibility he was entering a general claim to the sovereignty of Scotland without reference to the claims of others, but now his plea of divisibility was put in by him as a party to a litigation in which Baliol was the one party, and he the other.

The Lord Superior seems to have heard these and other such pleas with patience—indeed to have liked them, for they were gradually breaking down the old historic associations of a separate sovereignty, and preparing for the absorption of Scotland into the realm of England. From this point the pleadings for Baliol are that Scotland, though subject to the superiority of the King of England, yet is a Sovereignty; and he rebuts all comparison between it and several estates referred to as having been divided among heiresses. And here the tone of Baliol's pleading has in it a touch of dignity, as supporting some remnant of separate sovereignty for Scotland, while the

others seek to remove the last shred of it. Thus, as showing the separate sovereignty of Scotland, Baliol sets forth that one who had committed felony in England fleeing to Scotland could not be apprehended at the instance of the English authorities; to which Hastings makes answer, that if such things did occur, they were but an abuse.¹

¹ "To the demand by Sir John de Hastings of the third part of the kingdom of Scotland, because that he springs from the third daughter of David, and the kingdom of Scotland is held of our lord the King of England, and because that there never was a king of Scotland anointed or crowned;—Sir John de Baliol maketh answer, that although the kingdom of Scotland is held of our lord the King of England, nevertheless, before the Incarnation of our Lord, and always since, the land of Scotland has been held as a kingdom by kings who have there governed the realm, and by the Church of Rome have been king named and for king held, as also by all kings of Christendom; and royal dignity had, and justice in their land did unto all who of Scotland were. And besides this, he says that the castles, burghs, or towns of Scotland, do not make the king, nor confer the royal dignity, but it is the royal dignity that makes the king; castles, towns, and burghs, and all other things which in the said kingdom are, [are] unto this royal dignity appendant; the which dignity is one [and] entire, and the highest lordship in any land where kings do reign. And since that castles, cities, and burghs and towns, [are] annexed to this royal dignity,—without the which things it cannot be maintained,—just as the principal is non-partible, [so is] neither the accessory nor the thing which unto the principal appertains.

"And as to that there is no king anointed or crowned, the said Sir John de Baliol maketh answer,—that the anointing of a king or the crowning of a king is only the sign of a king, what he ought to be. And this appears in every crown of a king, which is round, and so signifies perfection; and the four flowers of the crown, each has a signification in itself: the flower in front signifies justice, the flower behind might; and of the other two flowers, the one signifies temperance, and the other prudence. And so the crown does not make the king, but it is an emblem, as before is said.

"Besides this, he says that there are many kings who are reigning who are not crowned, as the Kings of Spain, the King of Portingale, the King of Saverne, and the King of Vaxen, who hold their kingdom of the King of Almaine, as also the King of Arragon; the which all hold their kingdoms as non-partible. And like as in the time of our lord the King now reigning, the younger brother of the King of Arragon demanded as against the king, his brother, part of the kingdom of Arragon; and because that he would [not] do him the right he demanded, he sent his messengers to the King of France, and to our lord the King of England, and to the King of Spain, and to several

The claims of the heirs parcerers, as they have to call themselves, are urged with all the pertinacity natural to litigants fighting for valuable possessions. They go into intricacies of feudal principle, through which it would hardly be instructive here to follow them, but it is easy to see that these pleadings must contain a great treasure of thirteenth-century practice for the use of the conveyancer and real-property lawyer. What confers a strange interest on the selfish squabble, and the array of technicalities and pleadings called out by it, is that there is no more allusion to the rights of the community of Scotland, or the way in which a decision may affect them, than there need be in any private litigation. They have no more place in the question than the tenants on an estate while the settlements are disputed. So far as one can gather from the terms of the documents, it never seems to have occurred to the greedy litigants themselves, or their astute technical advisers, that there was a fierce, self-willed people, nourished in independence and national pride, who must be bent or broken before the subtleties and pedantries of the Lord Superior's court could be of any avail. Totally unconscious they seem also to have been that the intricate technicalities which dealt with a sovereign independent state as a mere piece of property in search of an owner, formed an insult never to be forgiven, whatever might be the cost of repudiation and vengeance. We cannot show how far any rumour of the proceedings before the Lord Superior penetrated into Scotland. We can only understand that as yet there was nothing done that could or need be resisted. Action would come when the pressure of Norman rule should tell the people that they had got new masters.

The great cause, as we have seen, began in May 1291; we are now in November 1292. The Lord Superior

other kings, of whom each sent him word by his own messenger, that a kingdom ought not to be divided; and all the kings united, and unto this agreed. Wherefore it seemeth unto him, that this matter ought much to work for him in this case."—Rishanger, p. 339-342. This is a mere characteristic fragment of a long pleading.

seems to have felt that the time had come for a conclusion. There is evidence of quick work ; all the competitors, save the descendants of Earl David, appear withdrawing their claims as if by a simultaneous vote, though there was doubtless much dealing with them to get them out of the way at the right time. Before judgment, two questions were put to the assemblage, the which, as the Great Roll succinctly tells, brought out answers to the effect that in this question the estate was not divisible, and the descendants of the elder sister must be exhausted before those of the younger have a title. In the fuller accounts of the affair, however, we find that King Edward got answers to four questions from the eighty of Scotland, though we do not see, as in the earlier stage, in what form they were rendered. The first was, Whether the kingdom was partible? and they answered that it was not.

The second was, Whether the estates belonging to the crown were partible? and the answer was, that if they were within Scotland they were not, if out of Scotland they might be.

The third was, Whether earldoms and baronies were partible in Scotland? and they answered, that earldoms were not, as had been found in the succession to the earldom of Athole, but baronies were understood to be partible.

The fourth question was more general, If the kingdom was not partible, and so should fall to the descendants of the eldest, was it consistent with practice to make some provision for the younger daughters or their descendants? The answer was, that there had been no opportunity to provide for such a case in the succession to the crown ; but in the succession to earldoms it was usual for the eldest, who took the estate, to make some provision for the younger—but this was matter of grace, not of right.

To complete the history of the great cause it is necessary to give these last particulars, because they are contained in documents evidently authentic ; but it would be satisfactory to know more than these documents tell of the spirit in which they were put and answered.

On the Monday after the Feast of St Martin, in No-

vember, there was a great assemblage in the Castle of Berwick to hear the Lord Superior's judgment, which, as all by this time must have well known, was in favour of Baliol. It was a correct judgment according to the law of hereditary descent as now established, and probably the full consideration which the case received may have done much to settle the rule of primogeniture for after-times.

There was still business to be done. The new vassal had to do homage, and instructions had to be issued for his investiture in his fief. These operations are almost hidden in a procession of formalities, devised for the purpose of placing the result of the momentous process beyond any possibility of question or cavil. A piece of business had to be adjusted in the winding-up, small in itself, yet holding a significant meaning. The fees to be paid to the Lord Chamberlain for the King of Scotland's homage had to be adjusted. By an ordinance recorded in the Great Roll it was fixed at twenty pound,—the double of an earl's fee. Thus, often as we find mention of a king of Scots doing homage for something or other, there was no precedent for what he must pay in doing homage for the kingdom of Scotland.¹ And this is in harmony with all the proceedings before the Lord Superior. Their character, as ordinary feudal usages turned to the accomplishment of a new object for which there were no set precedents, is sustained throughout.

There was abundance of further technical procedure in the winding up, but we have now reached the result, and the further formalities make no part of the story. It would not be very instructive to recapitulate them; and in fact, as they are all on parchment, an account of them would be about as uninteresting as an abridgment of any set of title-deeds. The tiresome uniformity of the written documents is varied by one small but significant piece of material work. The seal used by the guardians was broken into four pieces, which were put into a leather bag

¹ "Ratione homagii quod idem rex Scotiæ fecit regi Angliæ pro regno Scotiæ."

and deposited in the Treasury of England. It is set forth, with the solemnity which attends the whole process, that there were two reasons for this—the one was to obviate questions which might arise about the date or validity of writs, if the seal of the guardians were in existence after the appointment of a King; the other was to provide an additional token or testimony of the establishment of the King of England's feudal superiority over Scotland.²

¹ If the Author shall come under the reproach of having gone with tedious minuteness into the particulars and technicalities of this discussion, he has to say that great litigations—*causes célèbres*, as they are called—are admitted to be instructive chapters in the history of human affairs; and it would be difficult to find a more important cause than the one of which the account is just concluded. As to the authorities for this account, the staple is of course the *Magnus Rotulus Scotiæ* in the *Fœdera*: this is aided by papers in the *Rotuli Scotiæ* and in the *Ragman Rolls*, edited for the Bannatyne Club. A considerable amount of new material is poured in by Sir Francis Palgrave, in his 'Documents and Records illustrating the History of Scotland, and the Transactions between the Crowns of Scotland and England, preserved in the Treasury of Her Majesty's Exchequer.' Of all that has been contributed, to our knowledge, of the affair, however, since the Great Roll was first published by Rymer, by far the most important contribution recently appeared in the third volume of the *Chronicles of the Monastery of St Albans*, in the *Collection of Chronicles and Memorials of Great Britain and Ireland during the Middle Ages*, published under the direction of the Master of the Rolls. Like the two previous volumes from the muniments of the same establishment, known as *Thomas of Walsingham's History*, this volume has been edited by Mr Riley; and all who have occasion to use it must feel grateful to him, not only for the important documents brought to light by him, but for the assistance afforded by him for fully understanding their import and their connection with what was previously known.

He brings home the collecting of these materials to Walter of Rishanger, a distinguished monk of St Albans. If he is right in this, the documents were preserved by one who was no friend to the Scots side in the great controversy; for Walter was retained by King Edward to plead his cause against Scotland before the Pope, and we shall have hereafter to come across his handiwork. (See *Introduction to the Chronicle of Rishanger*, printed by the Camden Society.) Whoever preserved the documents, they are an immense addition to the contents of the Great Roll, and let out many significant particulars not to be found there. Among these is the very notable fact that on the question of homage the community of Scotland spoke out, though not

For instance, the fact of the doing of homage is very articulately set forth in a notarial instrument duly attested; and then, to give additional strength to this, there is the narrative of onlookers who saw the ceremony, and reported what they saw. The new King of Scotland, King John, has to sign a statement—a sort of affidavit—that he performed his homage for his kingdom of Scotland, and performed it willingly, and in honest faith that it was justly due to the King of England as Lord Superior of Scotland.¹

The new king now went to Scone to be solemnly inaugurated on the Stone of Destiny, after the manner of the kings of Scotland. He brought with him a document or warrant from his Lord Superior, authorising the cere-

to the purpose, in the Lord Superior's judgment (see p. 121). Many other instructive particulars—including the information, in the last sentence of the text, about the reason for breaking the Great Seal—are to be found solely in Rishanger's collection. Altogether, it is clear that the pleadings and the miscellaneous documents connected with the great cause must have been very voluminous. A great bundle of the pleadings has come to us from Rishanger, yet they show that there was abundance more. Sir Francis Palgrave gives portions of the pleadings different from those preserved by Rishanger—not inconsistent with them, but belonging to a different stage in the great cause.

¹ The Norman scribe or conveyancer who drafted this document found a difficulty, and was perhaps proud of the way in which he got over it. The practice of authenticating business documents by seal had then taken root in England. It came into Scotland, too, among the Normans, but afterwards dropped out of use, yielding to the simple signature in writing. In England, however, the practice grew and flourished so healthily, that at this day, as many people know, there are several kinds of documents of the most important kind, public and private, which would be utterly worthless without having on them a wafer or a piece of circular paper pasted on to represent the seal of the person who signs. The shape of the seal, however, which was to attest King John of Baliol's affidavit of his homage was a more serious affair. Whether the old seal had been yet broken up or not, it was not a suitable one for the occasion, and there was as yet no new seal with the effigy of King John. The plan adopted, after due consideration, was to use King John's private seal, as Sir Johan de Baliol, and to narrate how, in the emergency, that plan was adopted. "*En tesmonie de ceste chose, je ay mis a cest escrit mon seal, que je ay use jesques en cea, pur ceo que je ne avoy uncore autre seal fet desouz tittle e noun du Roy.*"—Rishanger, 368.

mony to be performed, and certifying him as the proper person on whom it should be performed. He was enthroned accordingly on the 30th November 1292. There was still a step wanting to satisfy his master. Homage had been taken of him at various stages of the process; it was now desirable that he should render it as an invested king, and he did so accordingly on the 26th of December at Newcastle, where King Edward received him. He was now sent back to his people, as thoroughly complete a vassal king as the technical skill of the Norman jurists could make him; and his was doubtless deemed the lot of a fortunate and happy man. In that brilliant chivalry—that group of gay adventurers who, unburdened by nationality or other serious creeds, were following fortune wherever they could find it—he had drawn the foremost prize going; but it only cast him into a sea of troubles. It was plain from the first that his people would not bear the rule of a servant of Edward. In the society he had left behind him, no one dared speak of anything but homage and the rights of the Lord Paramount. Among the people now surrounding him these were terms not to be endured, and he was far away from his master and protector. He was thwarted in the selection of his officers, and had to struggle with all the difficulties which subordinates can throw in the path of an unwelcome master. He does not seem to have been a man of much ability—indeed he is liberally termed a fool by friends as well as foes—but his position was one in which courage and ability might have only made mischief. It was said at the time that he was in terror for his safety; and one contemporary writing from the English side compares the poor simpleton to a lamb among wolves.¹

¹ In the St Albans Annals, attributed to Rishanger, who, for the reasons already mentioned (p. 155, note), had means of knowing what was going on, there is a lively enough notice of King John's reception: "*Scoti autem, volentes nolentes, illum ut regem animo turgenti moleste susceperunt. Illico omnes famulos suos de sua notitia et natione summoverunt, et alios, ignotos sibi, ad sui ministrationem deputarunt. Regium nomen ei ægre imposuerunt, non spontanea voluntate, sed coacti, et regium officium ei penitus abstulerunt, dicentes, mutæ.*"

It happened that individual members of the community, in the ordinary pursuit of their personal aims, were the means of rousing the exasperation of the body at large, by bringing home to them in a palpable shape the national degradation. The rumour had gone forth that the king's courts were no longer supreme—there was an authority above them, which could correct their decisions and remedy their acts of injustice. This was glorious news to disappointed litigants. It was desirable, too, that as speedily as possible the Lord Superior should exercise his power as the protector and redresser.

The first to appeal unto Cæsar was Roger Bartholemew, a burgess of Berwick. A certain Marjory Moigne, a widow in Berwick, took proceedings before the Court of the Custodes at Edinburgh on the following statement :—She had lent to William the goldsmith a hundred and eighty pounds sterling, the property of her boys. The goldsmith having died, Roger, as his executor, had taken possession of his estate, but had not repaid the widow. There was a counter-plea, that the goldsmith's estate had a claim for the maintenance of the boys, and that to the rest of the fund the widow had helped herself by taking it out of the executor's strong-box. On these counter-pleas a litigation was built, the result of which was disastrous to Roger ; and it was only in human nature that he should seek a remedy, without being hindered by considerations about the sacrifice of his country's independence.¹ King Edward, at Newcastle, named a council to hear the case. King John protested that there existed a treaty providing that no native of Scotland should be required to plead to

'Nolumus hunc regnare super nos.' Ille autem, simplex et idiota, quasi mutus et elinguis comperta superstitiosa seditione Scotorum, non aperuit os suum ; timuit enim feralem rabiem illius populi, ne eum fame attenuarent, aut carcerali custodia manciparent. Sic degebat inter eos anno integro, quasi agnus inter lupos."—*Annales Angliæ et Scotiæ*, 371.

¹ "Placita apud Edinburgh coram custodibus regni Scotie die Jovis in festo S. Luce Evang. Anno Dom. MCC. nonagesimo primo." Under this title the whole case will be found in Ryley's *Pleadings in Parliament*, p. 146.

any suit, civil or criminal, out of the realm. King Edward said that, supposing there were such an obligation; it could not affect his right to control the judges he had himself appointed; but he was resolved to remove all possibility of mistake, and, speaking fairly out, proclaimed that he was determined to hear all appeals from the country of which he was Lord Superior. Though a thoroughly practical man, not to be turned from his purpose by parchment, it seems to have been felt by Edward as undesirable that there should remain in writing an agreement like the Treaty of Brigham, by which, in many shapes, he had become bound to observe the independence of Scotland, and had especially engaged that no Scotsman could be cited as a litigant into England. Accordingly, he extracted from Baliol a discharge and renunciation of this treaty for himself, his kingdom, his heirs, and every conceivable being supposed to have an interest in its provisions. While they were at such work, Edward's lawyers extended the cancelling to every kind of document known to exist, or afterwards turning up, in which there might be any condition that could by possibility be pleaded against the exercise, in any circumstances, of his sovereign superiority. This discharge, for greater security set forth both in Latin and French, is the last in "The Great Roll of Scotland." The elaborateness with which it raises a verbal fortification against every possible argument, plea, or quibble, that might be brought against the claims and acts of the Lord Superior, makes it a curious document; and the study of it might be instructive to a sharp attorney accustomed to prepare obligations for holding people to bargains which they may possibly repudiate as iniquitous.

The pecuniary squabble among the burgess families in Berwick thus expanded into a critical question of national politics. It was followed by another, which, standing alone, would have been of infinitely greater moment, since it concerned rights of succession connected with the earldom of Fife. It involved complex points, both in pedigree and legal formality, grounded on a claim by Macduff, the younger son of the last earl, who, as against his grand-nephew, demanded certain lands which he said his father

had given him. The real importance of the case lay in its finding it way to the Estates of Parliament. The sitting began at Scone on the 10th of February 1293. The judgment was against Macduff, who appealed to the Lord Superior. With these two cases in hand, a sort of rule of court was framed for hearing appeals from Scotland. It involved two remarkable conditions—that in such appeals the King of Scotland was to be cited, and must attend as a party; and that the appellant, if successful, should have damages or reparation for the injustice done to him in the court below.

It is easy at this stage to see that, whatever the ultimate views of King Edward may have been, his immediate object was to subject his new vassal to deep humiliation.

On the Macduff case the King of Scots was cited to appear before the high court of the Parliament of England on the day after the Feast of Trinity, in the month of March. He did not appear; he was afraid to set off on such an errand. He was again cited to appear in October. Meanwhile, in August, there was a meeting of the Estates at Stirling—a meeting which may be called the second Parliament of King John.¹ The business it transacted, so far as we have it on record, related to personal feudal claims. They were of considerable territorial importance. Two of them—the one affecting the domains of the house of Bruce, the other those of the house of Douglas—were appealed to King Edward and his Parliament. It is in the shape taken by the appeals already entered that political importance and historical interest centre.² King John obeyed the second summons, going up to England with instructions, whether they were communicated to him by the assembly at Stirling, or otherwise. We see by the

¹ See the proceedings of the two meetings, during John's short reign, in the first volume of the Scots Acts, p. 89 *et seq.*

² A good account of the three litigations in which the houses of Macduff, Bruce, and Douglas were interested, is given by Lord Hailes, who seems to have taken a professional interest in them as a genealogical lawyer *Annals*, i. 274 *et seq.*

record of the proceedings that he was personally present.¹ As the historians of the English Parliament put it: "This King of Scotland was obliged to stand at the bar like a private person and answer to an accusation brought against him for denying justice."² A legislative assembly, whether patrician or democratic, can always be trusted with the execution of an oppressive or insulting policy towards a rival or dependent community; and on this occasion Edward was well served—too well perhaps. The King of Scots was treated throughout as a contumacious litigant, failing in respect to the worshipful court. He stood, however, to the policy to which he had been driven in Scotland. Acknowledging himself the vassal of the King of England, he said he yet dared not commit himself to the matter in hand, or any other affecting the kingdom of Scotland, without consulting the Estates of the kingdom; and when closer pressed, he repeated the assurance.³ The court then found the party before them contumacious, and guilty of contempt of an aggravated kind, since it was cast at the sovereign who had conferred on him the dignity and authority he enjoyed. He was not only to be subjected in damages to the appellant, but to a special punishment for contumacy. On a preamble, which seems to say that a delinquent ought to be punished by deprivation of the means of holding out in wrong-doing, it was resolved that the three principal castles in Scotland, with the towns attached to them, and the royal jurisdiction over them, should be seised into the hands of the King of England until his vassal should give satisfaction for his contumacy.⁴ Before this parliamentary resolution passed

¹ "Placita coram ipso domino rege et consilio suo ad Parliamentum suum post festum S. Michaelis," &c.—Ryley, 157.

² Parl. Hist., i. 41.

³ "Quod de aliquo regnum suum contingente non est ausus nec potest hic respondere inconsultis probis hominibus regni sui."

⁴ "Juri consonum est quod quilibet puniatur in eo quod ei prebet audaciam delinquendi, consideratum est similiter, quod tria principalia castra regni sui Scotiæ, cum villis in quibus eadem castra sita sunt, cum jurisdictione regali in easdem, seisiuntur in manu domini regis et seisita remaneant quousque de contemptu et inobedientia predicta, eidem domino regi satisfecerit."

into a decree, King John preferred to his superior, in very humble guise, a petition for delay, until he should consult "*les gentes de mon royaume*," as he called them, promising to report the result to the first Parliament after Easter. The Lord Superior thought fit to grant this petition. But these judicial proceedings were destined to be borne down by political impulses of a more powerful kind; and we have no more records of the appeals against the King and Parliament of Scotland to the King and Parliament of England.

CHAPTER XX.

WAR OF INDEPENDENCE TO THE BATTLE OF STIRLING.

EDWARD'S QUARREL WITH FRANCE—THE OPPORTUNITY FOR SCOTLAND—ALLIANCE BETWEEN FRANCE AND SCOTLAND—THE FOUNDATION OF WHAT IS CALLED THE ANCIENT LEAGUE—ITS IMPORTANCE IN EUROPEAN HISTORY—POPULAR CONDITIONS OF ITS ADOPTION ON THE SCOTS SIDE—EDWARD'S RETURN AND INVASION OF SCOTLAND—THE SIEGE OF BERWICK—BALIOL DRIVEN TO RENOUNCE HIS ALLEGIANCE—MARCH NORTHWARDS—EDINBURGH—THE REMOVAL OF THE CONTENTS OF THE ROYAL TREASURY—SCONE—REMOVAL OF THE STONE OF DESTINY—ITS STRANGE HISTORY BEFORE AND AFTER THE REMOVAL—THE BLACK ROOD OF SCOTLAND ANOTHER ACQUISITION—ITS HISTORY—EDWARD'S CIRCUIT AND COLLECTIONS OF HOMAGES—APPEARANCE OF WALLACE ON THE SCENE—WHAT IS KNOWN OF HIM COMPARED WITH THE LEGENDARY HISTORY—HIS CAPACITY AS A COMMANDER AND ORGANISER—HOW HE GATHERED AN ARMY—HIS VICTORY AT STIRLING BRIDGE.

AT this juncture an event occurred on the Continent momentous to Scotland, and even to Europe. It furnishes, too, an apt warning of the futility of passing a judgment on the political relations of nations and communities from feudal forms and parchment records. In the records of the court of France for the year 1294, there is an entry to the effect that Edward of England, summoned as a vassal to appear before his lord superior, the King of France, having failed to obey the summons, is punished for contumacy. The forms of feudal style in which this step is recorded, are a fair rival in domineering and insulting language with those of King Edward's scribes in the affairs of Scotland, for France was then in one of its expansive

transitions, and the tone of King Philip was high.¹ As lord superior he peremptorily fixed the day at which his vassal must appear before him in Paris; and he orders and adjudges him then and there to appear, as the gravity of the charges against him requires, to submit to the judgment of his lord superior, warning him that, whether he appear or not, justice shall take its course. The foundation for this citation was a paltry squabble at Bayonne, in which it was maintained that the British were the aggressors. King Edward was too deep in such mysteries not to know at once what his brother Philip the Fair intended. Having Ireland, Wales, and last, Scotland, to deal with at home, Edward's hands were full of business. He knew that the opportunity was only too good for an attempt to annex his French dominions to the crown of France, and the first step to be taken was to insult him, and convert him as speedily as possible into a contumacious vassal. Edward let the matter take its course, and prepared for war. He summoned a parliament for an aid, and John Baliol, who attended, made a munificent contribution to it—three years' rental of his vast English domains. It is not clear whether King Edward saw through the policy of this gift: it must have been clear to the giver that, if he retained his crown, he must entirely lose his English estates. He had wide domains in France too, which might be forfeited, so that the concurrence of conditions which had loaded him with the favours of fortune had also heaped perplexing difficulties around him.

An embargo was issued against vessels leaving the coasts, and nominally at least it extended to Scotland.

¹ "Vobis præcipimus et mandamus, sub poenis, quas potuistis incurrere et potestis, quatinus vicesima die instantis natalis domini, quam vobis peremptorie Parisiis assignamus, compareatis coram nobis, sicut debeatis et debetis, et sicut tantorum facinorum et excessuum qualitas exigit et requirit, super eisdem, quorum cognatio ad nos pertinet, et prædicta tangentibus, et quæ ex eis sequi possent, et omnibus aliis, quæ contra vos proponenda duxerimus, responsuri, et juri parituri, et quod justum fuerit audituri, et etiam recepturi. Significantes vobis, tenore præsentium, quod, sive dictis die et loco compareatis, sive non, nos nihilominus procedemus, prout debemus, vestra absentia non obstante."—*Fœdera* (Record edition), i. 793.

The usual warrant for the feudal array was issued, and the chief vassals of the crown, with the King of Scots first in order, followed by Bruce and Comyn, were honoured by special writs of summons.

For a bold game in Scotland here was a good opportunity, and it was not lost. In the English chronicles we are told that, when Edward had departed on his expedition, a Parliament was held at Scone, at which all the Englishmen holding office at court were dismissed, and a committee of twelve members from the higher grades in the Estates was appointed to conduct the business of government.¹ Of these transactions there is no better evidence, but of another and more significant we have an ample record. During the year 1295, a league, offensive and defensive, was concluded between John, King of Scotland, and Philip, King of France. In the record of the negotiations, which is very full, there is a specialty on the side of Scotland which seems to give some amount of materiality to that *communitas*, or community, which we have found dispensing its influence in a shadowy and uncertain form. On the side of Scotland, as parties to the transaction, are announced the Prelates and Nobles, and also the communities of the towns or burghs, called also Universities, a term of wide use at that time, but soon afterwards limited to the great teaching corporations.² Hence, attached to the stipulations for Scotland, along with those of prelates or barons, are the seals of the burghs of Edinburgh, Aberdeen, Perth, Stirling, Berwick, and Roxburgh. It is very unlikely that the transaction was completed by any assembly that could be called a parliament. That might have been unsafe or imprudent had it been the constitutional arrangement for the conduct of such business. It had, no doubt, to be so conducted that it should

¹ Rishanger, Hemingford, and Matthew of Westminster, anno 1295.

² "Et quia regni nostri prelati quantum eis de jure licet, ac comites, barones, et alii nobiles, nec non villarum universitates ac communitates, dictos tractatus conventiones pactiones ac considerationes ut superius est expressum suo nomine approbaverunt et se per presentes observaturos firmiter promiserunt," &c.—Scots Acts, i. *97.

be secret to many of the Scots themselves. Yet great care was taken to place it on a broad popular basis.

According to a fashion of the day, the diplomatists on both sides were eloquent in setting forth noble motives for what they were doing. The advisers of King John must have surely yielded to a sense of sarcasm, when they made him express his indignation at the undutiful conduct of the King of England to his lawful superior the King of France—perhaps it was a faint attempt to pay off old scores. This was the starting of that great policy which had so much influence for centuries on both sides of the British Channel—the policy of France and Scotland taking common counsel against England. It is just possible that the preservation of Baliol's French estates, Bailleul, Dampierre, Helicourt, and Hernoy, may have had some influence in reconciling him to so strong a measure; but what gave its real stability and power to the league between Scotland and France was their common interest, founded on their common danger. Prominent in this treaty was a royal alliance—Edward, the son of the King of Scots, was to marry the King of France's niece, the daughter of the Count of Anjou. There were stipulations for matrimonial provisions, and very carefully drawn stipulations, that Baliol's son, Edward, should really be his successor in the throne. For the rest, King Philip engaged to protect Scotland from English invasion, by sending an army and otherwise, and the Scots king bound himself to break in on the borders while Edward was engaged in the war abroad.¹ This last was a bargain for wasting, destroying, and slaying, rendered in terms which sound savage through the diplomatic formalities. The engagement was but too literally kept. One rabble army swept the western, and another the eastern, border counties, pillaging, destroying, and burning after the old fashion.

¹ The substance of the treaty is in some measure preserved in the *Fœdera* (Record edition), i. 822, and in Hemingford, i. 66. The most complete rendering of it, however, is in the first volume of the *Scots Acts* (*Acta Regis Johannis*), p. *95.

Both returned without any battle or achievement to give the mark of soldiership to their expedition. A course more wantonly impolitic for a country in Scotland's position could not well be devised ; but it was a country not only without any conspicuous leader, but deprived, by a succession of singularly adverse incidents, of the machinery which a nation requires for its government even in ordinary times. Bruce, the competitor for the crown, died about this time. His son, the father of the great King Robert, was suspected of treating for the reversion of the rights likely to be forfeited by Baliol ; and the raids against England seem to have been directed by Comyn, Earl of Buchan.

It has generally surprised historians that so strong and warlike a king as Edward should have left the French contest a loser rather than a gainer. His fiery spirit was, however, ruled by a deep sagacity. As emperor of all the British Islands, with Ireland, Wales, and Scotland subdued, he would achieve an eminence and power not to be risked for the sake of straggling dependencies on the Continent. Accordingly, he determined at present to concentrate his powers on Scotland.

He marched northwards with thirty thousand foot-soldiers and five thousand mounted men-at-arms.¹ This was a powerful force. The horsemen, clad in complete mail, their actual fighting power enhanced by a superstition that they were unassailable, were then to an army what cannon are now—they could not be too numerous. An army, of course, required other elements, but these never failed in full proportion to the mounted men, whose number was ever limited by the difficulty of procuring them. He determined to pounce upon Berwick—at once the key of Scotland, and the centre of its commercial riches. He forded the river Tweed a few miles above its mouth, and thus got his army clear of the difficulty of crossing a river in the face of an enemy. He now marched

¹ The chronicles say 4000 ; but in the diary to be presently referred to the number is 5000.—See Stevenson's Documents, &c., ii. 25.

through ground familiar to him in the conferences about the competition. At that time we have found that he came and went as he pleased, holding his court in the town or the castle of Berwick as suited him; but now the castle or citadel was garrisoned by Scots, and even the town resolved to resist. This presumption made Edward furious; and a chronicler of the day who was deep in the king's confidence, and practically concerned in his projects on Scotland, thought it worth his while to preserve some contumelious taunts with which an audacious citizen aggravated the monarch's potent wrath.¹ It received more ardent aggravation from the burning of some ships which had been sent for a sea attack. The town, with

¹ This, as given by Rishanger, is perhaps the oldest relic of the Lowland Scots of the day: "*Confestim unus e Scotis alta voce coepit convitia et verba probrosa regi Angliæ inferre patria lingua,—Kyng Edward, wanne thu havest Berwic, pike the; wanne thu havest geten, dike the*" (p. 373).

In an old French chronicle the taunt is varied, and accompanied by a hit at the personal peculiarity which gave occasion to the nickname Edward Longshanks—

"What wende the Kyng Edward
For his langge shanks,
For to wynne Berewyke
Al our unthanes?
Go pike it him,
And when he it have wonne
Go dike it him."

And in comment the chronicler says briefly: "*Quant le bon roi Edward oi ceste reproece taunt fist il par sa prusce qe il assailli les portes, et passa et conquist la ville, et occist par soun gracious poer vynt et cink mille et sept centz.*"—Wallace Papers, 142.

Though we need not believe that these sarcasms had such an effect in raising the fury of the king, the notoriety given to them shows that they must have been effective, though we cannot now easily see their point. The best testimony to their celebrity is, that Peter Langtoft in his chronicle took them up as hits, and deliberately answered them in the spirit of the old taunt of retaliation, that they may laugh who win, since the pick-axe and the dyke at which the others sneered had been effectual:—

"Pikit him, and dikit him, on scorne said he,
He pikes and dikes in length, as him likes, how best it may be,
And thou hast for thi pikyng, mykille ille likyng, the sothe is to se,
Without any lesyng, alle is thi hething, fallen upon the.
For scatred er thi Scottis, and hodred in ther hottes, neuer thei ne the.
Right als I rede, thei tombled in Tuede, that woned bi the se."

nothing apparently but a poor earthen mound to defend it, was taken at once. There is an awful unanimity of testimony to the merciless use made of the victory. The writer who knew best of all describes the king as rabid, like a boar infested with the hounds, and issuing the order to spare none; and tells how the citizens fell like the leaves in autumn, until there was not one of the Scots who could not escape left alive, and he rejoices over their fate as a just judgment for their wickedness.¹

In the town, the Flemings had a fortified establishment called the Red House. It held out after the town was taken, and was destroyed by firing, thirty of its defenders being burnt within it. Thus it was on the community among whom the protection of the Lord Superior was first sought that his vengeance first fell. There was an end of the great city of merchant princes, and Berwick was henceforth to hold the rank of a common market-town, and be conspicuous only, after the usual fate of a frontier town, for its share in the calamities of war. The castle capitulated on terms, and the garrison was spared, though the citizens had been slain. Before leaving the place Edward dug a deep ditch or fosse, and raised a corresponding rampart, strengthened with stakes, on the Scots side of the town. It was reported at the time that he had himself wheeled a barrow in this service. It was one of those acts of inspiring condescension which show earnestness and determination, and become immortalised when exhibited in the service of goodness or humanity.²

A scene was enacted before he left the neighbourhood of Berwick. His vassal Baliol, according to the chroniclers, had been in restraint since his rather abrupt departure from England during the sitting of the parliament assembled to aid the war with France. He could not, if he would, have obeyed a summons to meet his superior at

¹ "Gens illa nuda et inermis misere lacerata occubuit; cœciderunt quemadmodum folia arborum in autumnò, nec solum superstitem in civitate de Scotis inventum reliquit gladius regis. Tandem suos divina pietas victoria decoravit, Scotos infideles cæde simul et fuga dehonestavit."—Rishanger, 374.

² "Ipsemet cum vehiculo terram portabat."—Rishanger, 375.

Newcastle. Those who now had a stronger hold on him than the Lord Superior, compelled him, instead of giving attendance, to render a written renunciation of his vassalship.¹

This document did not reach King Edward until after he had completed his work at Berwick. He was probably in high spirits; and it is on this occasion that he is said to have uttered the sarcastic threat—"The foolish traitor, what folly! If he won't come to me, I must go to him."² King Edward marched northwards, and the next point at which he met any difficulty was the Castle of Dunbar, close on the sea. It had but just fallen into the hands of the independence party; and we are told that it was taken from them, although an immense army came to the support of the garrison.³ We are further told that this army was defeated and many prisoners taken. There evidently was not, however, a great battle with organised troops and known commanders pitted against each other. The Scots seem to have been a confused mass, of whose numbers

¹ The instrument announcing the renunciation of fealty must have created unbounded ridicule among the accomplished feudal draftsmen in King Edward's employment. It is in extravagant contrast to the decorous documents among which it has been preserved. It is a piece of vehement scolding, weakened by the difficulties of putting that kind of expression into the Latin language. The conclusion is utterly inconsistent with feudal logic. On the ground of the outrages and contumelies to which he has been subjected, King John retracts homage and fealty to King Edward, both for himself and any subjects of his who may have committed themselves in the matter. If the homage and fealty were the fulfilment of the King of England's rights, they could not be retracted or withdrawn; and there is nothing said about their being illegal or exacted under coercion. It is easy to see that King John had not such skilful feudal draftsmen at his elbow as those who drew the documents in the Great Roll.—*Fœdera* (Record edition), i. 836.

² Epigrammatic utterances by historical characters on critical occasions are notoriously found, when investigated, to be standing on slippery testimony. This saying seems to have no better testimony than Bower's. He, however, evidently gives it unaltered in the form in which it existed in tradition, for it is stuck into his monkish Latin in the original French; and, as Lord Hailes observes, he mistranslates it, losing its point.—*Scotichron.*, xi. 18; *Hailes's Annals*, i. 289.

³ See Rishanger and Hemingford.

very vague estimates were taken. It seems unnecessary, too, to repeat the names of persons of eminence casually, and perhaps not accurately, mentioned, who then ranged themselves on the side of Scotland. It was a brief allegiance, which had speedily to be revoked, and we have to wait yet awhile ere we can fairly range the two opposite parties—the invaders of the soil and its defenders.

On the 14th of June King Edward reached Edinburgh, and lived in the Abbey of Holyrood. He attacked the castle, setting up, as we are told, three engines, which pelted it day and night for a week before the place was taken. The chroniclers of later times relate that he removed the ancient national crown and sceptre, with the other emblems of sovereignty. Doubtless, if such things lay in his way, he would have carried them off. It may be questioned, however, if Scotland had then a "regalia" such as might befit a royal court of later times. We know that Baliol had among his effects an article called a crown, because afterwards, when he went to France, his luggage was searched, and among his effects there was found a crown of gold, which was hung up by King Edward as an offering at the tomb of Thomas à Becket. This does not appear, however, to have been a symbol of ancient investiture. The spoliation was, of course, the work of subordinates, but they acted under instructions, and made the proper reports of their proceedings. There has, indeed, been preserved, with the usual Norman precision, an inventory of articles which King Edward thought it worth his while to take with him to London in three chests, but no crown is mentioned among them, nor indeed any emblem of royalty, unless it may be some articles bearing the royal arms; these chiefly consist of plate and jewellery, and are more like the list in an indictment for housebreaking than the trophies that might decorate the triumphal procession of a conqueror.¹ He went next to

¹ The most noticeable of the "jocalia," as they are called in the inventory, is "*unus ciphus de ovo griffini fractus in toto argento munitus*"—a griffin's egg, as it would seem, broken and patched with silver. It is supposed to have been the egg of an ostrich, or a cocoa-

Stirling, where he found the castle deserted, and passed on to St Johnstone, or Perth, where he abode three days. In the adjoining Abbey of Scone he found something which it was well worth his while to remove and keep, and he either took it with him northwards or left it till his return : this was the Stone of Destiny—the palladium of Scotland. It was enshrined in a chair or throne, on which the kings of Scots were wont to be crowned. Its legendary history was, that it was the pillow on which Jacob reposed when he saw the vision of the angels ascending and descending the ladder, and that it was brought over by Scota, that daughter of Pharaoh from whom the Scots line of monarchs was descended. In terms of a prophetic couplet,¹ it was its virtue that wherever it might be placed there would the Scots be supreme ; and it will easily be believed that the prophecy was recalled, when in after-days the monarchs of the Stewart dynasty sat on it to be crowned in Westminster.

King Edward was a serious prince, according to the notions of the age, and much given to relic-worship. He chose a spot sacred by its uses, and by the presence of his own household gods, for the reception of the great relic—the achievement of his sword and spear. It was in the chapel built by his father, containing the shrine of Edward the Confessor—where his loved Queen Eleanor and his father were buried, and where he then desired that his own dust should be laid.² He intended at once to enclose the relic in a shrine, which should be the coronation chair of

nut. There is, however, “*una nux cum pede argentea deaurata fracta.*” The removal of these things was so far remembered as to get into the chronicles :—

“*Hic rex sic totam Scotiam fecit sibi notam,
Qui sine mensura tulit inde jocalia plura.*”—*Scotichron.*, xi. 25.

1 “*Ni fallat fatum Scoti, quocunque locatum
Invenient lapidem, regnare tenentur ibidem.*”

² In contemplating it in its place—which we may now do—to feel the full effect of the scene we should for a moment restore in imagination the altar and its appendages, and lay aside for a time the low esteem in which relics, however sacred, are in those times held.”—Joseph Hunter's Paper on King Edward's Spoliations in Scotland, *Arch. Journal*, xii. 245.

the kings. At first he gave orders for a chair of bronze, then altered his intention, and had it made in wood. Its cover or shrine thus being a seat or throne, altered and adorned from age to age, became the coronation chair of the kings of England.¹

That the stone was so eagerly seized by King Edward, so tenaciously retained by his successors, and so highly distinguished in its new place, are now the chief testimony to the fact that it was an object of high reverence and honour in Scotland. The oldest annalists evidently make their first acquaintance with its existence when they come to tell of its removal. Whatever revelation they afford of its earlier history is limited to the one item, that at the enthroning or inauguration of Alexander III. he was solemnly placed upon "the stone" reverently preserved for the consecration of the kings of Scotland.²

There was, besides the use of the Stone of Destiny, another sanction necessary for the completion of an ancient Scots coronation—the presence and intervention of the

¹ For instance, at the coronation of Henry IV.—"*Introducto rege, et incathedrato sede regali super lapidem qui dicitur 'Regale Regni Scotiæ,' cantabatur Antiphona.*"—Riley, *Chronica Monasterii S. Albani*, 294. In the inventory of articles received by King Edward it is called "*una petra magna supra quam reges Scotiæ solebant coronari.*"—*Arch. Journal*, xiii. 250.

² This ceremony is notable in history from the appearance and participation in the ceremonies of a Celtic seer, see above, p. 21. From what seems a mixture of Celtic and feudal customs, it has been supposed that "the stone" came along with the old traditions of the Irish race who ruled in Dalriada. The history of this palladium has had its full share of skilled investigation—see in the eighth volume of the *Proceedings of the Antiquaries' Society of Scotland*, 'The Coronation Stone, by William Skene, Esq., LL.D., Vice-President S. A. Scot,' followed by 'Note on the Coronation Stone, by John Stuart, Esq., LL.D., Sec. S. A. Scot.' But the chief result of all inquiries has been to bring forth the ancient and picturesque legendary history that accumulated over this simple stone when it became associated with the history of the War of Independence. The beginning of that history is in the pleading before the Pope by the Scots emissary, Baldred Bisset, to be afterwards noticed. The passage has been thus translated from the record: "The daughter of Pharaoh, King of Egypt, with an armed band and a large fleet, goes to Ireland, and there being joined by a body of Irish, she sails to Scotland, taking with her the

chief of the clan Macduff. We shall presently come across a memorable incident arising out of this ancient rite, but it may be well to say a word about it here, where it will give less interruption to the narrative of events. In the age of the popular histories it was said that the Thane of Fife and head of the clan Macduff had given such material aid in the revolution that dethroned Macbeth and raised King Malcolm to the throne, as to secure the undying gratitude of Scotland and her royal race, manifested in conferring on that house all its mysterious privileges.¹

royal seat which he, the King of England, with other insignia of the kingdom of Scotland, carried with him by violence to England. She conquered and destroyed the Picts and took their kingdom; and from this Scota the Scots and Scotia are named, according to the line—

“ ‘A muliere Scota vocitatur Scocia tota.’ ”

—Proceedings, *ut sup.*, p. 81.

The Stone of Destiny has been recently taken out of its case under the seat of the coronation throne. It was found to be an oblong rectangular block of limestone, a good deal worn with handling, and bearing no engraving or inscription. For lifting it there are two rings, one at each end, attached to it, with careful arrangements to prevent their breaking off by the weight of the stone. The mortising is in the centre of each end—equidistant from each side, and from the top and bottom. As it would be inconvenient, however, to hold the rings in such a position, there is a bar or link long enough to keep each ring clear of the upper surface of the stone. The only old description of the stone, given in an English account of Baliol's inauguration, will be seen from the above to be inaccurate: “*Concavus quidem, ad modum rotundæ cathedræ confectus.*”—Hemingford, *ad an.* 1292.

¹ The privileges of the clan Macduff is one of the questions which recent archæologists have been loath to touch. They included “the right of placing the king in his chair at his coronation, the command of the van in the king's army, and power to compound, by a sum of money, for the accidental murder of a nobleman or commoner by any of them. There still remains, not far from Lindores, a stone cross which served as a boundary between Fife and Strathearn, with an inscription in barbarous verses, which had such a right of sanctuary that a murderer within the ninth degree of relation to Macduff, Earl of Fife, if he could reach the cross and pay nine cows, with a heifer, should be acquitted of the murder.”—Gough's edition of Camden's *Britannia*, iv. 3. The cross had disappeared when Gordon looked for it about the year 1711 (*Itinerarium*, 170). The inscription said to have been upon the cross, concluding with the words “limpide

But this is only one of the many attempts to supply, from speculation and invention, the place of lost knowledge. It would be as difficult for us now to solve the secret as it was for the monks of the fifteenth century.

Besides the Stone of Destiny, King Edward got possession of another movable, valuable to him as a weakening of the enemy and a strengthening of his own hand by the possession of a potent relic: this was the celebrated Black Rood or Holy Rood. It was a certified fragment of the true cross preserved in a shrine of gold or silver gilt. It was brought over by St Margaret, and left as a sacred legacy to her descendants and their kingdom, and its removal was a loss to Scotland, second only to that of the Stone of Destiny. The rood had been the sanctifying relic round which King David I. raised the house of canons regular of the Holy Rood, devoted to the rule of St Augustin, at Edinburgh. The kings of Scotland afterwards found it so convenient to frequent this religious house that they built alongside of it a royal residence or palace, well known to the world as Holyrood House. The importance of such a relic to the country having the good fortune to own it, is shown in its finding a legendary miraculous history. As it goes, King David had gone a-hunting into the forest of Drumsheuch, on which now stands Charlotte Square and other parts of western Edinburgh. The day was the commemoration of the exaltation of the cross. The king followed his sport in defiance of the solemn admonition of his confessor, and of course something was to come of his so doing. He followed, unattended, a stag, which stood at bay and would have done him deadly injury, but the sacred relic at the moment miraculously slid into his hands and the furious animal vanished.¹ This relic being small and portable was

lampede labrum," is an attempt to produce something that might pass as an ancient unknown language, by a scribe whose use of monkish Latin has hampered his invention. The whole will remind the reader of the drama of 'Macduff's Cross,' one of the latest and least successful of Scott's works.

¹ Liber Cartarum Sanctæ Crucis, Pref. This legend is told in Bellenden's translation of Boece (xii. 16), but not by Boece himself,

very useful to King Edward as a sanction in the administration of the oath of allegiance in the course of his journey. Afterwards, when he charged important persons with breaking their oaths of allegiance to him, it was put as an aggravation of the crime that they had been sworn on the Black Rood.

The Holy Rood was afterwards returned to Scotland, and was again lost at the calamitous battle of Neville's Cross, to be told in its proper place.¹

To return to King Edward's triumphal journey. He was in Forfarshire in the early part of July, and there, at Brechin or Montrose, the hapless King John came to him like a criminal, submitting to be dealt with as the conqueror pleased. Such documents as were deemed necessary to degrade and dispossess him were then drawn with the usual care.² He was sent in custody to England along with his son. He was not one of those whom Edward had any reason to fear; and two or three years

an odd omission. See further the Miscellany of the Bannatyne Club, ii. 13.

¹ An annalist of Durham who had seen the Reformation, after mentioning other spoils taken from the Scots in the battle of Neville's Cross, says, "together with 'the Black Rood of Scotland,' so termed, with Mary and John made of silver, being as yt were smoked all over, which was placed and set up in the pillar next St Cuthbert's shrine in the South Alley" of Durham.—This is stated in Sanderson's *Antiquities of the Abbey or Cathedral Church of Durham*, p. 28, 29. But there is a more correct version of it in 'A Description or Breife Declaration of all the Ancient Monuments, Rites, and Customs belonging or being within the Monastical Church of Durham before the Suppression,' printed by the Surtees Society. The passage looks as if its author had seen the Rood, which disappeared in his day no one seems to know how. See also 'St Cuthbert, with an Account of the state in which his Remains were found upon the opening of his Tomb,' by James Raine, M.A., p. 100. The old annalist attributes the legend of the stag and cross to King David II., who was taken prisoner at the battle of Neville's Cross, and for this is duly chastised by Mr Raine, who says: "My author goes on to state that this same David Bruce soon afterwards founded the Abbey of Holyrood in commemoration of the event. The truth is, that monastery was founded above two centuries before his time."—Raine, p. 109.

² There is a difference in authorities on the date of his submission, running between the 2d and the 10th of July. This is attributed to the time necessary to complete the proper formalities.

afterwards, as the result of some amicable negotiations, he was delivered up to the representative of the Pope, who saw him quietly settled down in his domains of Bailleul, in France. King Edward stayed a day or two at Aberdeen, and on the 26th of July reached Elgin, where he finally halted. He reached Berwick on his return on the 22d of August.¹

During this journey King Edward very sedulously garnered in a harvest of personal homages. Attended as he was by his fine army, there was no help for it; all must obey but those who chose martyrdom, and homage did not take so firm a hold on the feudal conscience as to drive it to this extremity. Great territorial potentates and churchmen were specially sent for, others were taken as they fell in the way. As usual, everything that ceremonial in act and formality in parchment could do was done to make these submissions effective. It was set forth on each occasion, in very strong language, that the homage-doer came forward out of a sense of duty and of his own free will to record his allegiance. One thing is peculiar in these homages, that no reason is set forth why homage should be given, though, doubtless, there was a reason for such an omission. There is nothing said about the superiority over Scotland, nor is any closer right of authority assumed. The vassals simply give their allegiance to Edward, King of England, Lord of Ireland, and Duke of Aquitaine.²

¹ The statements about the articles removed by King Edward are taken from Mr Hunter's paper above referred to. The particulars of the journey are taken from an old document brought before the English Society of Antiquaries by Sir Harris Nicholas in a paper called 'A Narrative of the Progress of King Edward I. in his Invasion of Scotland in the year 1296.'—*Archæologia*, xxi. 478; and *Miscellany of the Bannatyne Club*, i. 271. It ends with a statement how King Edward "conquered and serchid the kyngdom of Scotland, as ys aforesaid, in xxi wekys withought any more."

² The documents connected with the homage, usually called "The Ragman Rolls," have been printed for the Bannatyne Club in a heap, under the title '*Instrumenta Publica sive Processus super Fidelitatis et Homagiis Scotorum Domino Regi Angliæ factis*.' In the introduction will be found the conjectures of the adepts, none of them conclusive, on the etymology of the peculiar term Ragman.

After Edward's return there is a pause, on his side at least, as if he were waiting to see the turn of events. A change may be noticed in the practice of drawing the royal writs. It is not so much a change in old style or form, as the dropping of novelties which recent occurrences had introduced. Ever since the great conference at Norham began, the royal writs relating to Scotland set forth in all ceremony his title as Lord Superior of Scotland. While this is dropped, King of Scotland is not adopted, but in the writs specially addressed to the Scots he speaks of them as those put under his government.¹ One of the earliest statutes passed after his return professed to be a remedy for ecclesiastical abuses, which were said to be rife in England as well as Scotland, and the record of the statute is indorsed with an instruction to transmit it to Scotland. It was clear that the intended policy was gradually to incorporate the new acquisition with the kingdom of England. For the internal administration of Scotland he took some steps obviously necessary for his designs. He took care that the places of strength should be held by persons who neither owned domains in Scotland, nor, from their descent, had an opportunity of forming ambitious hereditary designs there. The most notable of these were Warenne, Earl of Surrey, appointed Guardian, Hugh of Cressingham, the Treasurer, and Ormsby, the Justiciar. The strongholds were commanded and garrisoned by subjects of England equally free of Scots influences. It is to this period that we must assign the raising of the bulk of the oldest castles in Scotland. The style in which they are built, indeed, is significantly called the Edwardian, to distinguish it from the earlier Norman style used by the Conqueror and his followers. As we have no distinct evidence of the persons by whom these buildings were raised, it seems a rational

¹ As in the address or proclamation on his departure to Flanders, beginning, "*Rex dilectis et fidelibus suis universis et singulis et aliis quibuscunque de regno Scotiæ;*" and he expresses a hope that his expedition will be "*pro defensione et communi utilitate populi regimini nostro commissi.*"—*Fœdera* (Record edition), i. 180.

supposition that they were chiefly the work of the English authorities.

The people thus at last found alien masters at their door, and were sullen and suspicious. The foreign soldiers naturally conducted themselves as all military occupants of a subjected country do. The results were not of a kind to shape themselves into particular narratives; we only know that there was strife and confusion throughout. King Edward writes to Cressingham that all efforts must be made to bring to justice the wicked rebels, homicides, and disturbers of the peace with whom the land swarms, and to crush the rebellion. For this he is required to collect all the money he can raise, and to spend it. His obedience to this order for rigid taxation would do little to allay the growing storm.

It is at this time that the far-renowned William Wallace steps upon the stage. We know nothing of precedents which might lead us on to anticipate his public history; he comes to do his part like any actor who may just have figured in any other character, tragic or comic. His father was a knight and a landowner, having the estate of Ellerslie, in Renfrewshire. He had himself been knighted, and was thus, by the etiquette of Norman chivalry, as well entitled to lead armies as any noble, or even monarch, of his day. To which of the several races inhabiting Scotland his family belonged, is a question that has been deemed interesting, since he was certainly the representative and champion of that remnant of the Saxon, or pure Norse inhabitants of Britain, who had not yet been subjected to the southern yoke. But social position was of more weight in this matter than mere origin. He may have been of Norman descent; there were Wallaces scattered over England, and one came in with the Conqueror. But in reality the Normans were of the same northern Teutonic blood as the Saxons; and this it was that made them in the end assimilate into that well-assorted community which has made the England of the fifteenth and later centuries. The danger to the liberties of a country like Scotland was among those princely Norman houses which had domains in Scotland and England, perhaps

also in Ireland, in France, and in Flanders. The position of Norman William to the chiefs among his followers and supporters had scarcely been that of sovereign and subject, in the later acceptation of the terms. They were all in a common adventure, and he was but the chief adventurer. It was long ere the crown became strong enough to widen its distance from these great houses; and they showed the old spirit in the Barons' Wars, and on several other occasions. Before the time we are dealing with, the great bulk of the houses founded by the adventurers had gravitated into a position among the mere landed gentry or aristocracy of England; but there were still a few with domains scattered over Europe which had princely tendencies, and considered themselves entitled to put in their lot for thrones. It was the misfortune of Scotland at that time, that the natural representers and leaders of the country—the nearest relations of the old royal family—were all men of this class, and could not be trusted with the national interests. If a family had been living among the Scots people from generation to generation, it mattered not whether the first who pitched his tabernacle there had come from Denmark or Friesland—whether he had been one of the Saxons of England, seeking refuge from the tyranny of William's forest-laws, or a grandson of one of William's own followers. The interests and feelings of such a family would be in harmony with those of the commonalty, of which they were a part; and it was of such a family that William Wallace came.

The later romancers and minstrels of his native land have so profusely trumpeted his personal prowess and his superhuman strength, that part of their eulogy has stuck to history.¹ Whatever his personal strength may have

¹ "Wallace had an iron frame. His make, as he grew up to manhood, approached almost to the gigantic; and his personal strength was superior to the common run of even the strongest men."—P. F. Tytler, vol. i. ch. ii.

Thomas Campbell sang, in unison with the old minstrels, how—

"The sword that was fit for archangel to wield,
Was light in his terrible hand."

It is believed that this sword may still be seen—in several places. The

been, his achievements demanded qualities of a higher order. He was a man of vast political and military genius. As a soldier, he was one of those marvellously-gifted men, arising at long intervals, who can see through the military superstitions of the day, and organise power out of those elements which the pedantic soldier rejects as rubbish. The military superstition of that day ran on defensive armour. The mounted knight could not be too completely shelled in iron; the plates could not be too thick; the whole affair could not be too unwieldy. This iron-clad *ritter* was a very formidable being to those who had faith in him. Nothing else but his own duplicate could injure him or resist him; and there were abundant facts to confirm the faith. Instances were on record where one or two mounted knights, thundering in among a herd of light-armed peasants, made such a scattering among them as does the lion when he appears among a herd of gazelles. It was not in Scotland that such scenes had been witnessed; but the scorn of the *canaille*, which they encouraged in the chivalry, spread over Europe. It was an exciting and pleasant view of their position to those on the bright side, and alike depressing to those on the other. Its tendency was to divide the world into an insolent aristocracy and a servile peasantry. The Normans were no longer a new race, proud solely of their personal advantages, and ignorant of the names of their grandfathers. More than two hundred years had consolidated for them a lofty social position; and uniting pride of birth to pride in their personal endowments, they got servile clerks to invent ancient pedigrees for them, and lift them to an immeasurable social height above the yeomen and bur-

grave antiquary, Bishop Nicolson, with an unusual attempt at humour, says: "The famous Sir William Wallas, who was so barbarously treated by our King Edward I., is still remembered as one of the greatest patriots and champions that Scotland ever had; and, as such, has had his exploits recorded by several hands. The poem which goes commonly about in old Scotch rhyme describes him like a true knight-errant, cleaving his foes generally through braun and bane down to the shoulders, and seldom striking off less than an arm or a leg."—Scottish Historical Library, 246.*

ghers of their day. It was a service to the world that this insolent and aggrandising spirit caught a check almost simultaneously in three places — Switzerland, Flanders, and Scotland.

In this last country, as we have seen, the conditions were peculiarly discouraging. Not only were there no leaders to be trusted, but the country had enjoyed peace — a peace scarcely disturbed for more than a hundred years. During this time the English had been ever fighting—in Ireland, in Wales, in France, and among each other in the Barons' Wars. The end showed, however, that the stuff of which a warlike nation is made abounded: in fact, historical conditions had made the Lowland Scots the very pick of the hardy northern tribes. They were made up of those who had left their homes whenever they found tyranny, or, as it may be otherwise called, a strong government, pressing on them. Thither came those who had successively swarmed off before the pressure of Varus, of Charlemagne, of Gorme the Old, and of Harold the Fair-haired. And the last, and perhaps the stoutest and truest of all, were the Saxon peasants who had sought refuge from the iron rule of the Normans among a kindred people still free.

Of the character in which Wallace first became formidable the accounts in literature are distractingly conflicting. With the chroniclers of his own country, who write after the War of Independence, he is raised to the highest pinnacle of magnanimity and heroism. To the English contemporary chroniclers he is a pestilent ruffian; a disturber of the peace of society; an outrager of all laws and social duties; finally, a robber—the head of one of many bands of robbers and marauders then infesting Scotland. But Edward's government and organisation were not of a kind to permit mere sorning and robbery, and there were far more formidable powers at work than those which the administration of criminal justice could cope with. The people were all exasperated, and all ready to rise against their new oppressors, wanting but a leader; and the course of events brought them that leader in Wallace.

Among the many who have chronicled his fame, Harry

the blind minstrel is pre-eminent in having devoted his whole force to the glorifying of his hero. Harry was a blind wandering minstrel, but he belonged to the days when his craft might be that of a gentleman; and while he addressed the commonalty to rouse their patriotic ardour, he was received at great men's tables. He deals with events, however, which were two hundred years old when he sang them: he had no authority but tradition, and history must receive his stories with much jealousy. Many of them, indeed, are practically impossible, or deal with supernatural agencies; and they are valuable, not as narratives of facts, but as the things which the people of Scotland delighted to hear about the hero of their idolatry. Still, it has to be said that, incidentally from time to time, little morsels of evidence have turned up, serving curiously to confirm the fundamentals of some of his stories. Take, for instance, the tragedy which made him swear eternal vengeance against the invaders. He had just taken to wife a virtuous damsel named Bradfute. She resides in the town of Lanark, where there is an English garrison; and as he is a marked man, from having already resented the insults of the invaders, it is not safe for him to reside there, and he must be content with stealthy visits to his bride. One day, having just heard mass, he encounters some straggling soldiers, who treat him with ribaldry and practical jokes. A very animated scene of taunt and retort, what is vulgarly called chaffing, is given by the minstrel; but it must be held as in the style of the fifteenth rather than of the thirteenth century. Wallace bears all with good temper, until a foul jest is flung at his wife. Then he draws his great sword, and cuts off the offender's hand. He is joined by a few of his countrymen, and there is a scuffle; but the English are many times their number, and they must seek safety. His own door is opened for Wallace by his wife, and he escapes through it into the open country. For this service his poor wife is slain, and then he vows eternal vengeance. Gathering a few daring hearts round him, he falls upon the garrison in the night, burns their quarters, and kills several of them, among the rest William de Hazelrig,

whom Edward had made Earl of Clydesdale and Sheriff of Ayr.

The story is not, on the whole, improbable: we can easily believe in such a man being driven desperate by insults and injuries to himself and to those dear to him. But the latter portion of the story is confirmed in a curious manner. About sixty years later, a Northumbrian knight, Sir Thomas de Grey, had been taken prisoner in the Scots wars, and was committed to the Castle of Edinburgh. There, like Raleigh, he bethought him of writing something like a history of the world; but it fortunately gave a disproportionate prominence to events in or near his own day, especially those in which he or his father participated. He tells how, in the month of May 1297, his father was in garrison at Lanark, and that Wallace fell upon the quarters at night, killed Hazelrig, and set fire to the place. The father had good reason to remember and tell about the affair, for he was wounded in it, and left on the street for dead. Had it not been that he lay between two blazing buildings, he would have died, wounded as he was, of exposure in that chill May night, but he was recognised by his comrade, William de Lundy, and tended by him till he recovered.¹ Further, it was charged against Wallace, when indicted in London, that he had slain Hazelrig and cut his body in pieces.

The influence of Wallace's nature brought around him companions. He got by degrees a little band capable of harassing outlying parties of Edward's soldiers. He and his followers were emboldened at last to the flagrant audacity of making a raid on the great justiciar, Ormsby, when holding a court at Scone. The justiciar took to his

¹ *Scalacronica*, 124. We are told by the editor of the Chronicle that Sir Thomas de Grey, having claimed some reward for his services against the Scots, King Edward II., in the year 1319, issued letters patent, reciting that "he had given to Thomas de Grey and to his heirs for ever, in consequence of the good, loyal, and long-continued service of the granter against the Scotch, an hundred and eight acres of arable land, and eight acres of meadow, with their appurtenances, in Howick, near Alnwick."—Introduction, xx. Thus the Cumberland Greys acquired the possessions which gave them the title of Howick.

heels and escaped, but prisoners were taken and some rich plunder, which made the feat, in the eyes of common lawyers, a very audacious burglary. It was an event of still greater importance that Wallace was joined by a territorial magnate and a soldier of renown, William of Douglas. The origin of the family is supposed to have been Flemish. Whether or not this kept away all sympathy for the Norman adventurers, the family were not then tempted to divided allegiance by estates scattered in other countries, and were among the few great landed lords who could truly be called Scotsmen. Douglas had repeatedly done homage to King Edward. He was the commander of the Castle of Berwick when it capitulated, and was of course bound as tightly to Edward's service as oaths and parchment could bind him. But his presence gave a respectability to the insurrectionary force, which as yet the leader, who had given no allegiance to be recalled, could not have conferred on it.

Those with whom the responsibility for the tranquillity of Scotland chiefly lay, saw in such events an ugly tendency to turbulence, which must be extinguished at the beginning. Beck, the warrior-bishop of Durham, took this in hand; but he was attacked in Glasgow, and, like the justiciar, had to run for his own safety. King Edward was then starting for Flanders. He had the bulk of the Scots barons with him, and the others left at home, especially Bruce, were well watched. According to the experience of the age, when the natural leaders were removed or cared for, it was supposed that the people would be safe in the hands of those sent to govern them; and so little apprehension was there, that Warenne, Earl of Surrey, the governor, had returned to England for the benefit of his health. Beck, animated by the fright he had got at Glasgow, had a formidable case to lay before the king, who directed Surrey to levy the military array to the north of the Trent, and go and stamp out these disturbances. For his own reasons, Surrey sent his nephew Percy to manage this affair. The force sent was 300 mounted men-at-arms, and, according to the best-informed chronicler, 40,000 foot-soldiers. This number may be

taken in a wide sense ; but from the number of mounted men it is clear that the force was not very strong. It passed through Bruce's country of Annandale, and on to Lochmaben, where at night there was alarm of an enemy at hand ; and we are told that the army burnt their wooden huts to get light and see what was the matter. The force marched on by the west coast, passing through Ayr to Irvine, where an event occurred which has a place in diplomatic record. It requires a word of preliminary explanation.

Before this time, as we have seen, Bruce, the competitor for the crown, died an old man. The head of the house at this time lived, in fealty to Edward, on his estates in England, content, as it would appear, to enjoy the advantages which his rank and wealth gave to him, and disinclined to cast his lot in troubled waters. His son, who was to become the hero-king, lived in Scotland as lord of his mother's domains in Carrick. He was of a temper more restless and ardent ; and the convulsive political conditions by which he was surrounded tended to excite him. Independently of the vision of a crown that could not but haunt him, he was one of a class for whom much allowance should be made. Their taste and training, in many cases their interest too, attached them to the brilliant court of the King of England. Yet in Scotland, where they had estates, there was a determination not to be subjected to that political arrangement which to them, to some of them at least, would have been the most pleasant. Hence we find those dubious movements and uncertain aims which have subjected them to much infamy as the betrayers of their country. Historians seemed to have found in this broad charge a sort of revenge for the perplexities which they have had to endure from the indistinct and unaccountable movements of many of these barons. We shall probably have a better notion of the truth, if, instead of estimating exactly the amount of honesty and patriotism that has influenced each of them, we follow the course of their actions in a spirit of indifference towards the personal motives at work. When the country became more and more restless, and it was

known that a leader, rising out of obscurity, was actually gathering an insurrectionary force about him, it was felt that Bruce might be tempted into mischief; and the wardens of the western marches called him to Carlisle, and required him to take the strongest obligations of fealty they could think of. He gave, too, a sort of guarantee for his sincerity by outrages on the lands and household of the Douglas, who had attached himself to Wallace. Afterwards, however, he seems to have chafed at inaction—to have panted to be, at all events, in a position to act when he saw fit. He called on the Annandale men to muster round him. These were his father's vassals, and they declined to commit themselves to some uncertain enterprise when the demand was not even made by their proper lord. He raised a body from his own domains in Carrick; but what he was to do with them was not known to others, probably not distinct to himself. To join Wallace could hardly serve him any good turn. Wallace was, in all his conduct, thoroughly constitutional. There had been a king of Scots throned at Scone as King John. Of that king, as the head and representative of the state, he counted himself the servant; and everything that he did was in the name of John, by the grace of God, King of the Scots. What Bruce had to look for, then, if he joined Wallace's army, was the dire vengeance of Edward if the rising were a failure, and the loss of his English domains if success should make him a Scots earl under King John.

Bruce, with his Carrick men, and a cluster of other barons, whose objects seem to have been equally undecided, were at Irvine when Percy's army had come so far. They came to the conclusion that the best thing to be done was to surrender on terms. They asked if there was any one in the English army authorised to receive them to King Edward's peace; and being told that there was, they negotiated a surrender. It is on record as written at Irvine on the 9th of July. The persons who surrender are Robert, Earl of Carrick; James, the Steward of Scotland; John, his brother; Alexander de Lyndesey; and, rather unaccountably, William of Douglas.

We have no reason to suppose that Wallace was present on this occasion. His name is not mentioned by the contemporary English chronicler, whose account of the affair is the most minute, and the source of all others.¹ Wallace seems, indeed, to have been in the north laying his plans for resisting the invading army at the Forth, or the Scots water, as it was still called. This is important, because it has so often been said that his army was distracted by the divisions caused by the nobles in his ranks, who were jealous of his supremacy. To complete the character of a great commander, he should be too strong-handed to permit dissension in camp, however many enemies he may have outside; and better evidence is needed ere we allow such a blot on the generalship of Wallace.

The affair of Irvine added to the number of the feudal leaders of the Scots whom Edward held in hand, and he thought he might with safety take his intended departure for Flanders. While he was there Wallace organ-

¹ Hemingford, i. 123. The discovery of the blunder of a copyist which has tended to support the notion of Wallace having been concerned, is one of the achievements of the minute eye of Sir Francis Palgrave. Let him tell his triumph. "The first of these instruments, or the submission, concludes with these words: '*Escrit a Irewin le noeime jour du mois de Juyl en le an del regne le Reys Edward vintime quint*' (p. 198). This passage is thus printed by Rymer (i. 868): '*Escrit a Sire Willaume, le noemme jour du moys de Juyl en le an del regne le Reys Edward vintime quint*.' The original is somewhat defaced, and Rymer, or his transcriber, not being conversant with the character, nor very familiar with the language, in reading the word *Irewin*, mistook a partially-effaced flourish of the capital *I* for an *S*, and the three parallel strokes of the concluding syllable '*in*' for the letter *m*, thus altering the word to '*Sirewm*.' The next stage in error was to divide this word into *Sire Willaume*, and thus the printed text was formed. Upon this text, appearing in an authentic publication, the subsequent writers of Scottish history had to work, and it was quite natural to suppose that *Sire Willaume* could be none other than Sir William Wallace. Hence Lord Hailes observes, 'The meaning is, as I presume, that the barons had notified to Wallace that they had made terms of accommodation for themselves and their party. But Wallace scorned submission,' &c. (i. 302.) The whole of this reasoning, and much more, is therefore grounded upon the false reading of a modern copying clerk." — Documents and Records, introd., cxxiv, cxxv.

ised a great force in the Lowland counties northward of the Tay, drawing large accessions from Aberdeenshire. He got possession of nearly all the strongholds, such as they were. He was besieging the Castle of Dundee when he heard that the English force with Surrey, who had followed his nephew, and Cressingham, the treasurer, were making for Stirling Bridge, the great pass between the north and south. There he resolved to deal a blow which might stop them.

The position he took up has natural features which explain at once how it suited his purpose. It is marked by the tall tower of the Abbey of Cambuskenneth, on the flat carse lands below Stirling through which the river Forth winds itself.¹ Close behind him was the Abbey Craig, an abrupt trap rock, yet not in all places so abrupt but that pathways might be found to the top, which those first in possession could use, and then so fortify as to defy any others to follow them. From the back of the Craig a neck of broken ground led immediately to the near mountain-range called the Ochil Hills: so much for the means of retreat. For receiving an enemy the ground was still more happily selected. It was within one of the loops of the Forth, which swept almost all round it in a circle. In all ages of warfare the advantages of such a position are notorious—it makes the commander inside the loop master of the situation. To get at any point, whether it be to cross over or to meet an enemy crossing, the leader inside the loop has only the diameter of a circle to deal with, the leader outside has the circumference to go round; so that the choice of the conditions of battle—if the English commanders were determined on a battle—lay with Wallace.²

Little reliance can be placed on the numbers in such armies. The English chronicler, who has given the ear-

¹ The Monastery of Skambskynel, as Hemingford calls it.

² The chronicler, Hemingford, pays a high tribute to Wallace's generalship in saying, "Nec fuit aptior locus in regno Scotiæ, ut concludendum Anglicos in manus Scotorum, aut multos in manus paucorum."—I. 128.

liest and fullest account of the war, says that Wallace had forty thousand foot-men and one hundred and eighty mounted men. On the English side there were fifty thousand foot-soldiers. The mounted men, however, would be considered the element of real importance, and when it is said that these numbered a thousand we may suppose the estimate pretty accurate. The English commanders, we are told, might have strengthened themselves from an additional force under Percy, but they already thought their army more than sufficient for its purpose. Before the battle there occurred an incident curiously exemplifying the position of the Norman or Normanised aristocracy, whose titles nominally connected them with Scotland. The Steward and the Earl of Lennox, with some others in Surrey's army, requested that the fate of the Scots army might be postponed until they should reason with its commander. They had sympathy enough with the commonalty of Scotland to desire not to see them butchered in a helpless mass. They returned, reporting that Wallace was absolutely unreasonable, and that there was no hope of averting a contest. Two friars sent to the Scots camp, probably as a final effort to prevent useless slaughter, were equally unsuccessful.

On the morning of the 11th of September the English commanders resolved to pass the Forth and attack the Scots. Nothing but a steadfast faith in the transcendent superiority of their trained troops when set against a rabble could have tempted them to a project which, if there were but an approach to equality in fighting power, was desperate. There was a proposal to take a detachment across by a ford, so as to make a flank attack while the main body crossed the bridge. If there was any near point where the river could then be forded there is none now; but the English commanders—Cressingham especially, it is said—were too impatient for the punishment of their presumptuous foes to adopt any such timid policy. The bridge was narrow, and permitted the horsemen to pass only two and two. The English army kept streaming over from early in the morning until eleven o'clock. The Scots were, it would seem, drawn up on the slopes of

the Abbey Craig, silent and actionless. At length, when their leader thought a sufficient number of the enemy were on his side, he sent a body round to seize and hold the head of the bridge, and stop all passage to or from it. That he should have been able to do so showed extreme negligence in those responsible for the safety of the English army. This could not but create serious uneasiness in those who had crossed the bridge; the foremost were struggling to get back, while those behind were yet pressing on, and in the crush and confusion many fell into the river. With this to discourage and alarm them in their rear, the troops who had crossed the bridge had to meet an onset from the bulk of the Scots army. The result was irretrievable confusion and general slaughter. The completeness of the ruin of the English army is attested by one of its knights having gained immortality by effecting a retreat for himself and some others: this was Sir Marmaduke de Twenge, who, when others spoke of throwing themselves into the river, with a small following cut his way to the bridge and recrossed it. But the recovery was of little avail to the rest of the army. It only tempted them to flight; and while the bridge drew off its narrow crowd, the Scots slaughtered the mob crushing upon it, or drove them into the river.¹

Surrey had not crossed, but he felt the defeat so entire that he at once rode hard to Berwick. Cressingham was

¹ Harry the minstrel tells how Wallace tampered with the supports of the timber bridge:—

“ A wricht he tuk, the suttellast as thar was,
And ordained him to saw the burd in twa,
Be the myd streit, that nane mycht our it ga:
On charnail bandis nald it full fast and sune,
Syne fylld with clay as no thing had beyne done.
The tother end he ordained for to be,
How it suld stand on three rowans off tre,
Quhen an war out that the laif down suld fall.”

—vii. 1150.

He then stationed a person at hand, who had nothing to do but to draw a peg at a given signal, when the bridge fell with all who were on it. A trick like this was a means of exciting the admiration of the multitude, slow to understand the higher qualities that enable a commander to handle effectively the special forces at his disposal.

a churchman, but much given, as it was said, to the pomp and circumstance of glorious war. He had been the soul of the English oppression in Scotland, and was very hateful. There are stories told of the Scots having taken off his skin and distributed it in morsels—not by any means, as the monkish chroniclers think it right to explain, out of veneration for them as relics. One can easily believe this to be true, while wishing that no worse things had to be recorded about the contest to which England and Scotland were now fairly committed.

CHAPTER XXI.

WAR OF INDEPENDENCE TO THE BATTLE OF ROSLIN.

NATIONAL INFLUENCE OF THE BATTLE OF STIRLING—WALLACE'S DEALINGS WITH THE HANSE TOWNS—RAIDS INTO ENGLAND ON THE EAST AND THE WEST—WALLACE'S PERSONAL CONDUCT—PROTECTION TO THE MONKS OF HEXHAM—BECOMES GUARDIAN OF THE KINGDOM—EDWARD'S SECOND GREAT INVASION—SIEGE OF DIRLETON—BATTLE OF FALKIRK—DISAPPEARANCE OF WALLACE FROM HISTORY—QUESTIONS AS TO HIS HAVING GONE TO FRANCE AND ROME—FRENCH AND ENGLISH DIPLOMACY—FRANCE AND SCOTLAND BALANCED AGAINST EDWARD AND THE FLEMINGS—THE QUESTION OF THE INDEPENDENCE OF SCOTLAND BEFORE THE COURT OF ROME—A PAPAL EMISSARY—HIS ADVENTURES ON THE BORDER—THE CURIOUS CASE LAID BEFORE THE PAPAL COURT BY KING EDWARD—ACTIVE WARFARE RESUMED—THE SIEGE OF CAERLAVEROCK—ITS HISTORY A TYPE OF THE SIEGES OF THE DAY—BATTLE OF ROSLIN.

THE later chroniclers tell us how Wallace, having the country at his command, set to and adjusted thoroughly effective systems for the official organisation of the executive, the administration of justice, and the transaction of local business by properly constituted local boards. But in the emergency the defence of the country would be the pre-eminent consideration, and so we are told how he divided the kingdom into military districts, and appointed a muster-book of able-bodied men between the ages of sixteen and sixty to be kept in each shire, barony, lordship, town, and burgh. The persons who mention these things lived at a time too late to have practical knowledge of them; and we all have practical knowledge of the fact, that it has been an established historical etiquette

to attribute such organisations to the hero of a country's idolatry when the fortune of war has given him the upper hand.

There is, however, one little authentic vestige of his public conduct after the battle, which shows him prompt to help the cause of peaceful progress. We may look on this battle as the point at which a change in national feeling was completed. The Scots had no natural antipathy to their English neighbours, who were of the same race as themselves. They were jealous of the interference of the Norman kings and nobles with their institutions, but in this they made almost common cause with the Anglo-Saxons. Gradually, no doubt, since soldiers and tax-gatherers had come among them, there grew a dislike of the English people. Now the two had measured their strength in a stricken field—a great inspirer of national animosity; and from this time we may date that obdurate hostility, the last vestiges of which have almost been seen by the existing generation. The victory was an immediate and a permanent encouragement to the Scots. Through all the calamities and reverses they had afterwards to endure, it reminded them that the enemy so haughty and so powerful had been beaten, and might be beaten again.

Its immediate influence was so powerful as to clear the country of the invaders. All the strongholds were recovered by the Scots—even Berwick, the loss of which was very vexatious to Edward, for he had given instructions to make it impregnable with stone walls, in addition to his earthen mound, and the instructions had been neglected.

There lately was found in the old commercial city of Lubeck a short document, which happens to be the only authentic vestige of Wallace's movements immediately after the battle. It is dated 11th October 1297, and is a communication to the towns of Lubeck and Hamburg in the name of Andrew de Moray and William Wallace, generals of the Army of the kingdom and community of Scotland. They thank the worthy friends of their country in these towns for services and attentions which the

unfortunate condition of their country had hindered its people from duly acknowledging. They assure their distant trading friends, however, that commerce with the ports of Scotland will now be restored; for the kingdom of Scotland, thanks be to God, has been recovered by battle from the power of the English.¹ We have seen that Scotland was becoming an actively trading nation before her troubles broke out. And this little document is a touching testimony to the prevalence of those peaceful pursuits, which were so cruelly crushed by the remorseless invaders; we have to wait many years ere we again find the trace of foreign trade in Scotland.

Indeed, very evil days were close at hand. A famine fell on Scotland, and, whether for food or vengeance, bands of armed men crossed the border, and played havoc in Cumberland and Westmoreland, over the old disputed district. The English chronicles—which are the only contemporary accounts of this affair—are confused, as all accounts of plundering and devastating inroads, whether by friend or foe, must needs be. Language and imagination are almost exhausted by the monkish chroniclers in describing the cruelties and brutalities of these rieviers; and yet the accounts of their deeds want originality, for there had been a sort of terrible formula for describing the work of a Scots invading army from the Battle of the Standard downwards. Of cruelty and rapacity there was no doubt a fearful amount, but it must be remembered that the suffering side had the telling of the story; and it was a policy with the English clergy, who were also the historians, to make out that the Scots were sacrilegious as well as cruel, and reserved their special tortures and indignities for holy men and women.

Wallace was at one time in the host taking command. From the tenor of the confused narratives, it might be inferred that the marauders had swarmed over the border before he joined them, and this is almost proved by dates. The letter to the corporations of Hamburg and Lubeck was written, as it says, in Scotland, bearing date 11th

¹ Wallace Papers, 159.

October; and when he was at Hexham, on the 7th of November, he found the place devastated by a previous inroad. At all events, those memorials of the sad business which are most distinct and authentic are thoroughly honourable to his memory. After a hundred and sixty years, the unfortunate Priory of Hexham was again wasted, and, as the annalists of the house tell us, just when they were exulting in the possession of noble additions to their buildings. When Wallace went there only three monks were found, cowering in a little oratory which they had made for themselves in the midst of the devastation; and when some one asked where their treasury was, they said the Scots horde had already carried it off, and they who had removed it would know where to find it. Then we are told how Wallace desired one of the monks to celebrate mass, and gave reverent attendance on it, yet could not take such order but that when his back was turned his rough followers plundered the altar of what sacred symbols were yet left. What we best know of his conduct on this occasion is, that he granted two writs of safe-conduct—the one to the prior and convent generally, the other to one of the monks, with a man-at-arms and two domestics, when on a journey to hold an interview with him. He had then associated with himself in the nominal command a young hero, afterwards renowned, Sir Andrew Moray. To him, in the preamble, he gives precedence, beginning: “Andreas de Moravia et Willelmus Wallensis, generals of the army of the King of Scotland, in the name of the illustrious Prince, the Lord John, by God’s grace King of Scotland, with the consent of the commonalty of the realm.” These writs are among the few luckily preserved morsels of real evidence which, in the minds of some, save the career of Wallace from being treated as that of a mythical person.¹

¹ That these documents should be given by Hemingford (i. 135) in a shape to stand criticism, is a testimony to the general credibility of that chronicler’s narrative; and not the less so that he can scarce ever mention Wallace without calling him *ille latro*, which may either mean that robber or that cut-throat. A critical friend has noted,

After these affairs, we find Wallace acting with the title of Guardian of the kingdom of Scotland, and leader of the armies of the same, in name of King John, and with consent of the commonalty. Whether or not, as the later chroniclers say, it was by a parliament held in Selkirkshire that he was raised to this dignity, we may conclude that it had the consent, in some shape or other, of the burghs and other portions of the Estates. There is just one writ by the Guardian extant—it appoints Alexander of Scrimishur, or Scrimgeur, to be constable of the Castle of Dundee, and invests him with certain lands on the hill above

however, that the vituperative epithet is not to be found in references to Wallace later than the affair of Hexham. See on this inroad the chronicle of Henry of Knyghton, by Twisden, 2520. He tells naturally enough how the depredators, bullying at Carlisle, said they appeared in the name of "William the Conqueror;" and when asked for an explanation of so startling a title, said he was William Wallace, the King of Scotland's general. In Prynne's Records (iii. 542) there is an account which rather discredits itself by representing John, King of Scotland, as the leader of the raid. It is during this inroad that the English chroniclers tell us how seven earls of Scotland took part with their followers—the Earls of Buchan, Monteith, Strathearn, Lennox, Ross, Athole, and Mar, along with the son of John Comyn. We are told that they collected a great force in Annandale—Bruce's country. This seems to have been a separate expedition from that commanded by Wallace. They attacked Carlisle and burned the suburb. They tried to fire the gate, but unsuccessfully; and we are told how a certain Galwegian, having reached it with a blazing faggot, was speared by men posted above the gate. It happened that a Scots riever was at that time a captive in Carlisle, and knowing that his countrymen were besieging the town, he co-operated with them by setting it on fire, and burning a large portion of it. We are told that the citizens—women as well as men—manfully defended the walls with stones and arrows, and drove the assailants away. In that expedition the Scots were aided by an ally of a remarkable kind—Robert de Ros, the English governor of Werk, who deserted his post and the service of Edward, and showed his zeal in the cause of the Scots by surrounding a force of a thousand Englishmen, at a place called Prestfen, and putting them to death, save a small number who escaped; this is not the sole instance in which a disposition was shown in the northern counties to make common cause with Scotland. This episode of the siege of Carlisle by the seven earls is not to be found in the usual chronicles and histories. It occurs in the *Scalacronica*, 122, and is given in more detail in Rishanger, 156. Both give the titles of the earls, and in the same order.

the town in reward for his fidelity in bearing the royal banner of Scotland.¹ The constabulary and the estate were held for centuries by Scrimgeurs, who distinguished themselves in honourable service; and a special lustre was always conceded by the popular voice to that race which held a hereditary title conferred by Wallace.

For all that a great victory had been gained, and the enemy swept out of the country, a close inquirer, looking at the condition of things, even without light from subsequent events, could see that there was small hope for Scotland. Wallace might be, in the abstract, the idol of the people, and they might be ready to place in his hands their liberties and their property; but the organisation by which the people were brought to act, both for peace and war, was the feudal system. The king banished—the great feudatories of the crown keeping out of the way, if they were not obstructive—the feudal organisation could not be worked, and a popular chief could not create, at his own hand, a substitute for it. The end was only delayed by the difficulties of King Edward. He was still in Flanders, where matters hardly went to his mind; and when he came over to Westminster, demanding from his parliament a grant for the punishment of Scotland, he was met by the old demand, odious to the ears of his race, for the confirmation of the charters in the first place; his patriotic parliament would then consider about a supply. Having got what he could, there were personal summonses stringently urged, and the levy of the feudal array; and while his troops were gathering, the king took the opportunity of making a pilgrimage to the shrine of St John of Beverley—a kind of incidental aid which he always sought for his projects, when it did not interfere with the preparations for effecting them by the arm of the flesh.

He entered Scotland with an army which, if it ap-

¹ The writ will be found in facsimile in Anderson's *Diplomata*, xliii., "*Charta Domini Gulielmi Wallace custodis Scotiæ nomino Johannis Baliol Regis, cum sigilla ejusdem Johannis.*" A copy of the charter is in the Wallace Papers, p. 159.

proached the character given of it by the English chronicles of the day, was magnificent and overwhelming. There were at first 7000 mounted men-at-arms, 3000 of them in coats of mail, and they were afterwards joined by 500 from Gascony. After this the number of footmen was of little moment. Eighty thousand is spoken of as the number. Among them were many of the king's Welsh and Irish subjects; these were not of much repute in regular war, but it was generally deemed a matter of small moment from what material the ordinary rabble of foot-soldiers were collected.

The army met an interruption at the Castle of Dirleton, near the promontory of North Berwick. At all events, if it were not taken, they would leave a strong place behind them garrisoned by the enemy, and it was not easily taken. Its ruins, which may now be seen, are of a building of that age, and it is possible that it may have been the first of the new class of fortresses besieged in Scotland. We know nothing, unfortunately, of the details of the siege—merely that the indefatigable warrior-bishop, Anthony Beck, found the taking of the place a long and difficult business. It is noted that the besieging army, running short of provisions, were able to supply themselves from the produce of the surrounding fields, and this has been taken as evidence of the fertility of the south of Scotland at that time.

Ere the king and his army reached the Forth, near Edinburgh, they saw the policy of their enemy, and were somewhat unnerved by it: it was to leave them to tread a desert where there was neither food to eat, nor man to direct them on their way. The policy was, indeed, almost effectual, and only some small chances in their favour saved them from a miserable retreat.

The crisis must have been a tantalising one to Wallace. He could muster but a poor force—about a third of the enemy's on the whole, and only a thousand mounted men. A battle was ruin to him, but he believed that if he waited the starved army of the invaders would have to retreat, and his force was sufficient to do them abundant mischief by harassing them as they went; but fortune was

against him. Hovering in the neighbourhood to catch the opportunity when it should come, he was discovered. Two knights, and it is noted that they bear Scots titles, are said to have sent a boy to Edward to tell him where the Scots army was to be found.¹ No time was lost in putting this information to use. The army, marching from Kirkliston, required to spend a night near Linlithgow, and, king and all, they lay upon the bare ground. King Edward was a thoroughly working soldier, and it was not the notion of his age that it behoved a commander, especially if he were of royal rank, to isolate himself in splendours and comforts from the vulgar hardships of the field. That night a page mishandled a horse near the king, and the beast's hind legs struck and wounded him, breaking two ribs as some authorities say.² This made no interruption; the king reserved the tending of his wounds until he was through the momentous business of next day.

There was no chance for Wallace in retreat—no alternative but to fight. In the previous battle the great point made was the selection of the ground; in this he showed even more of the tactician in the disposal of his troops where they were compelled to fight. It is a strong testimony to skill in the ordering of an army that it should be not only distinct, but hold a shape of which we can estimate the merit by knowing how valuable it is in modern

¹ This incident has been founded on as one of several which show the Scots aristocracy of the day as traitors to their country. The authority for it is in a passage in Hemingford, certainly one of the oddest in which a crisis in a nation's fate has ever been told: "*Ecce duo comites, Patricius S. et comes de Anegos, die proximo ante festum Mariæ Magdelinæ, summo diluculo ad Episcopum Dunelmensem venientes, et cum eis episcopus statim ad regem statuerunt puerum exploratorem coram rege, qui diceret 'Salve rex,' et rex ad eum 'Salve.' Puer etiam intulit 'Domine mi rex, exercitus Scotorum et omnes hostes tui non distant a te nisi per sex lucas modicas juxta Faukirke,'*" &c. (p. 162). The account is repeated in the same words by other chroniclers. Patricius S. is set down as the Earl of Dunbar. This is rather slender evidence on which to identify two Scotch earls, and then find them guilty of treachery to their country.

² Walsingham, 75.

warfare. The English chronicler describes the marshalling of the Scots army with such clearness that a picture or diagram would not have improved it. Taking up a slightly inclined plane, Wallace drew up his small body of mounted cavaliers in the rear, and distributed the footmen into circular clumps. In each circle the men knelt down—those on the outer rim at least—and held their lances obliquely erect; within the circle of lancers were the bowmen. The arrangement, save that it was circular instead of rectangular, was precisely the same as the "square to receive cavalry" which has baffled and beaten back so many a brilliant army in later days. It seemed at first as if Wallace's circles were to have a similar history. The first efforts against them were ineffectual, and the horsemen seemed shy of charging the thick clumps of spears. The inequality of force was too great, however, to be neutralised by skill. The charges of Edward's mounted horsemen at last crushed the circles, one after another, and when this was done the rest was mere rout and slaughter. Wallace managed to carry a small body out of the field, and marched to Stirling. They found it useless to attempt to hold the place; so, destroying what they could, they marched on no one knows whither, the commander and his followers alike disappearing from the history of that war.

The victory was a profitless one, except for its depressing influence on the spirit of the Scots. Edward had not prepared himself to keep an army in a country so utterly stripped of food. He swept the country to the right and left, accomplishing nothing but destruction. The population appears to have been drawn off beyond the Forth. What Edward might have found there we do not know, for he did not venture northwards; and he was at last compelled to drag his starved army back to Carlisle.

From this time we hear no more of Wallace concerning himself in active life in Scotland. Much has been said of the cabals and aristocratic jealousies which drove him from the office of Guardian, but in reality the whole affair

is a secret to the present day. The guardians were kept up as an institution in John Comyn of Badenoch and John de Soulis. The tendency of events was deepening the gulf between England and Scotland, and rendering double allegiance ever more hopeless. Hence the great feudatories who had domains in both countries had to make their selection so as to hold by the one and abandon the other, but they naturally took the alternative gradually and reluctantly.

The romancers after this time send Wallace to France, where he comes out as the true knight-errant in feats with lions, robbers, and pirates. Here, again, some vestiges of evidence lately found tend to confirm the material fact that he sojourned in France. In a mere list of documents found in his possession when he was carried captive to London, was a letter of safe-conduct to him from King Philip of France.¹ While he was in power, indeed, Wallace kept a sort of ambassador in France in William Lamberton, Bishop of St Andrews. Lamberton was, in fact, his own bishop. When the see became vacant, William Comyn was the candidate favoured by King Edward; and as this rendered it necessary that the national party should have another person, Lamberton was made bishop. His acceptance was one of the charges brought against him by King Edward in an ecclesiastical process at the Vatican, and other charges set forth that the bishop had gone to France, where he advocated the cause of the rebellious Scots and excited the traitor Wallace by prospects of French aid.² That Wallace should have had a safe-conduct to France is not sufficient to inform us that he went there and used it, but the probability that he did so is much strengthened by finding that he got credentials from France onwards. A very minute scrap among documents in the Tower of London, without date, was found to be a letter by Philip, King of France, to his representatives at the Court of Rome, recommending to them his good friend William le Walois, of Scotland, Knight, and desiring them to do what in them lay to expedite the business he had to

¹ Palgrave Documents, cxcv.

² *Ibid.*, cxvi.

transact at the Court of Rome.¹ Both in the French and in the Papal Court there was then a quantity of diplomatic business in progress regarding Scotland. We shall hear more of it hereafter; but it is necessary in dealing with it to leave out the name of Wallace, regretting that there is nothing to inform us distinctly whether the scraps of evidence alluded to are or are not connected with eminent diplomatic services performed by the popular hero.

Early in the year 1298, a *souffrance*, as it is called in Norman-French, had been negotiated between England and France. The word is translated as a truce, but it means something very different from a modern truce. It was a transaction between governments, while a truce is merely a transaction between armies—a promise to suspend hostilities for a time, and until some affair should be transacted, such as the burial of the dead during a siege, or the reception of instructions from headquarters. The *souffrance* was more of the nature of a peace at the present day; and the reason why of old it was treated as distinct from a peace was this: The wars of the time generally arose from questions of succession or of feudal superiority. When it became desirable to cease fighting, while yet neither side was prepared to give in to the other, there was an agreement to give up fighting in the mean time, reserving all rights entire for future discussion. A *souffrance* or truce of this kind might last for centuries.

There was thus a virtual peace between England and France, which specially included the allies of each. Philip complained that it was not faithfully kept, in as far as King Edward held in bondage a good ally of France, John, King of Scotland, along with several persons of rank and consideration, his subjects. There was a solemn conference about this matter, which appears to have been held at Edinburgh while Edward was retiring southward after his victory at Falkirk.² Edward maintained that the

¹ Wallace Papers, 102.

² "Actum in castris seu tentoriis dicti regis Angliæ prope Castrum Puellarum in Scotia, quod vulgariter nuncupatur Edinbourg." The

French alliance had been renounced by the Scots and their king ; and if he could not establish this point in diplomatic law, he could show that he had spared no pains to accomplish it. The renunciation was conspicuous, not only in the submission of Baliol when he was finally carried away, but in the acts of homage which Edward exacted from people of all ranks in his great progress through Scotland after the capture of Berwick. Each of these was separately recorded and kept ; and if a bundle of such parchments could have accomplished what was wanted, the thing had been done.¹

The King of France, however, thought that the annulling of treaties must lie with those who had contracted them. He had a treaty with the King of Scots ; and if that king, without making him a party, had engaged with another, it was because he was in the power of that other. On the other hand, the King of France did not admit that Edward had feudal claims authorising him to maintain that the King of Scots, being his vassal, could not be a party to a treaty. There were claims of superiority of all kinds bandied about among crowned heads at that time ; and where one king found another reigning over an established kingdom, the two were entitled to hold diplomatic relations. King Edward had to let the question hang over from the force of circumstances. We shall see that he was making preparations to crush Scotland by an irresistible army, but was so impeded by one difficulty after another, that he could not make an effectual beginning to the project. He received in the midst of his struggles a courteous communication from the new guardians of Scotland, setting forth that they intended to maintain the truce, and expressing a hope that he would do the same. Through the tedious diplomatic documents which were working on to a general peace, we still find France insisting on the truce ; and in the autumn of 1300 we find King Edward agreeing, at the solicitation of the King of France,

date is 1298, and the 26th year of Edward I., which brings it after 20th November.—*Fœdera* (Record edition), i. 898.

¹ See the specimens printed in the *Ragman Rolls*.

to continue the truce till Pentecost. This document keeps clear of the usual phraseology about the rebellion of the Scots against their lord superior, but at the same time it carefully avoids any acknowledgment of Scotland as a state or kingdom. The *gents d'Escocce* are the persons to whom the benefit of the truce is conceded.¹ At a conference in January 1302, between representatives of England and France, the French insisted on the English abstaining from hostilities in Scotland, and proposed that their seizures or acquisitions there should be placed in the hands of the King of France for future disposal.²

In the oscillations of this diplomacy, against whatever weight Scotland might give to France there was a balance on the other side. King Edward had a league with the Flemings. These were rising rapidly in wealth and importance by their industry. To a chivalrous monarchy like that of France, an independent State strengthened by such resources was a neighbour not to be endured, and cruel efforts were made to subdue and annex Flanders. But in the stout Flemings defending their liberties King Edward found just the kind of aid that King Philip sought in the Scots. Such were the allies about which the two great powers ever pressed each other. If Edward was not bound to observe the truce towards Scotland, then Philip was released from any obligation to spare Flanders. After long treating, the two great powers found that they could only come to terms by each shaking off its ally. In reading through the articles of perpetual peace and friendship of 1303, commonly called the Peace of Paris, nothing will be found about allies, or about Scotland or Flanders.³

¹ *Fœdera* (Record edition), i. 924.

² *Ibid.*, 937. The conference was held in Scotland at a well-known place—Linlithgow. The king had been able to carry his army so far, and established his court there for some time.

³ There are carefully-prepared conditions in the treaty, which go, among many other things, to show the extreme importance attributed to all feudal questions of superiority and homage among princes. In terms which leave no room for the supposition that King Edward would keep any obligation from which he could escape by a quibble, it is stipulated that he shall perform his homage for Aquitaine ever duly, and without delay. He is not to be excused from personal

There was a deputation attending to the interests of Scotland at the Court of France, including Bishop Lambertson, the Steward of Scotland, and other eminent persons. They were no doubt somewhat disturbed when they saw this treaty; but they wrote to the guardians and community of Scotland to be of good cheer—King Philip's words were yet encouraging, and he taught them to expect that he might influence King Edward to offer terms to Scotland. But should King Edward's heart, they say, be hardened like Pharaoh's, they hope their countrymen will hold on manfully and unanimously, trusting in the God of battles, and resisting to the last; and they throw out a few words of comfort and encouragement in telling of the fame their countrymen had acquired far and wide over Europe by their achievements in the war with England.¹ There is more diplomacy for some time between Scotland and France: the alliance has not been cancelled, but France does not find it convenient to act on it.

There was another foreign influence at work on the destinies of Scotland. The view to be taken by the Court of Rome, about the struggle and the merits of either party, was of much moment. About the policy which the Popedom had pursued for some centuries in the quarrels of the European powers, there is a popular notion that it was merely a development of the propensity of powerful priests to meddle with matters out of the line of their spiritual duties. It fell to the Popes, however, to perform onerous duties in national diplomacy. The system of rights and obligations, called the law of nations, and latterly international law, had the anomalous quality of being a code, obligatory among the states of Europe, which yet there was no supreme head to enforce. It was a law punishing and protecting without any court to enforce its decrees. It had not been thus, however, in its origin. This law of

attendance, unless upon the ground of sickness or storms at sea, or any other sufficient excuse, the ground of which is distinct and notorious; and if he have a personal excuse for absenting himself, his son must come in his place.

¹ *Fœdera* (Record edition), i. 955.

nations—the diplomatic code of Europe—was founded by the Empire, which had power to give it force ; and it has existed down to the present day as a tradition sanctioned by immemorial usage, and the deference of public opinion throughout the civilised world. When the secular side of the Empire was broken up, there remained yet the ecclesiastical side, with a powerful and intelligent official staff, penetrating into the farthest provinces of every country in Europe. A great deal of the work of the Empire at large fell to this department. It was the most natural of all alternatives—one official organisation being broken up, here was another so close as to be almost identical with it; not only complete, but in the best working order. Thus many departments of secular business fell to the Church—among others, in several countries, the organisation of those municipalities which were so valuable a member of the old Imperial system. As we have already seen, the Church supplied an organisation for keeping up the old civil law throughout Europe—an operation less remarkable in those countries where it quietly prevailed than in England, where the common law gave it continual battle.

In the same way the organisation at the Papal Court kept up the old *comitas gentium*—the diplomatic relations which held Europe together. The system was not so much a creation of aggrandising, ambitious churchmen, as the result of a pressure from those forcing business into the holy court. This was a vast establishment thronged by greedy, ambitious suitors of all nations and languages ; and thus sought and courted, it could not fail to be powerful. Perfect justice was no more to be found there than elsewhere among human institutions. Influences were at work commensurate with the greatness of the stakes at issue. It would often depend on something other than its goodness that a cause was successful.

The cause of Scotland must have been well supported at the Court of Rome, for a decided impression was made. Something was probably due to a pretty loud participation in the national wailings, by a body who knew how to be heard at Rome, and whose voice would find ready sympathy there. The Church of Scotland was in danger

—or rather the churchmen. King Edward thought it would be in favour of loyalty to the house of Plantagenet if the ecclesiastics serving in Scotland were Englishmen. The view was no doubt a sagacious one, provided it could be got into practical operation. The steps towards it, however, gave alarm. In the winter of 1297 he had sent instructions to Brian Fitz Allan, whom he had appointed governor, that on the occurrence of any ecclesiastical vacancy of no higher value than forty merks annually, he should present to it some member of the Church of England; or if that did not suit, any other discreet person, provided he were an Englishman.¹ It is to be inferred that to more valuable charges the king would himself present. Lamberton, who had to fight for his bishopric, and would be driven from it if the English rule were resumed, had been consecrated by the Pope. He had gone to France, and may have gone to Rome, in the national cause; and his reception there as a prelate would make the adoption of his cause a matter of consistency. There is so far a probability of Wallace also having been there, that, as we have seen, he obtained credentials to the Court of Rome; and it does not weaken this supposition that King Edward, in his memorial to the Pope, declared his Holiness to be under the influence of certain “enemies of peace and sons of rebellion” residing at Rome. According to the later chronicles, the authorised emissaries of Scotland were Baldred Bisset, William Eglesham, and William, Archdeacon of Lothian. Whoever were the working men, they achieved the first great point in all such contests—they made those who had the duty of getting up the details of business at the Court of Rome thoroughly acquainted with the whole case for Scotland against the English claims.²

In the summer of 1298 there came to Edward from Rome a preliminary hint—a paternal admonition concern-

¹ *Fœdera* (Record edition), i. 877.

² In the *Scotichronicon* the instructions to the representatives are given in full; but if this version of them is correct, it is clear that the representatives, who took a different course, were much better men of business than their instructors at home.

ing charges against him of unjust aggression on Scotland—a document adorned by precepts, pointing towards justice and peace and loving-kindness among Christians. This was followed by another more to the point. It charged King Edward distinctly with a violation of the rights and liberties of the kingdom and Church of Scotland, done under the false pretence of a right of superiority over that kingdom. It told him that he had no excuse, because there were palpable events of recent times incompatible with any such right of superiority. With great distinctness these events were set forth: how when Henry, the father of Edward, got assistance from his son-in-law, the King of Scots, careful stipulations were made that the assistance was given of favour and friendly alliance, not of obligation; and when Alexander did homage to Edward himself for Tyndale and Penrith, care was taken to mark the limitation of the homage. King Edward's failure to take the guardianship of the infant queen on the death of King Alexander—his duty if he really were superior of his realm—was strongly put; and the details of each precedent were given in the Papal bull with a clearness and precision which could not have been excelled by any draftsman in Edinburgh.

There was a feature in this document which has created some excitement among historians. The Pope declared that the kingdom of Scotland belonged, and had of old belonged, to the Church of Rome. This has been dealt with as an impudent attempt on the part of the Pope to drive the plunderer from the prey, in order that himself might take it. But there was no intention to imitate King Edward by annexing Scotland, either as a feudal dependency or an absolute dominion, to the Court of Rome; such a project was not within the bounds of the practicable. The meaning of the claim was, that Scotland was a free sovereignty, with no subjection save such as all sovereigns owed to the Church of Rome—a subjection which that Church was of course apt to interpret more widely than her subject sovereigns would admit. Finally, the Pope told King Edward, that if he believed himself to have any rights over the kingdom of Scotland, he was free

to prove them at the Holy Court, lodging there all the laws, writings, and other things on which he founded, and his claims would have full consideration as those of a valued son of the Church. This was precisely in accordance with that supervision of the diplomatic relations of the European powers which had fallen to the Church, or rather the Court of the Church, at Rome. A great country desirous of crushing a small one gets up a case in its own favour, and acts on it. But before the old established landmarks of the European powers are thus broken up, the Court of Rome chooses to examine the case, and to give a judgment, to be carried into effect by interdict or other ecclesiastical process. It may not have been a sound political system, but it put a stop to a world of oppression, and prevented the peace of Europe from being so often disturbed as it would have been by rapacious despots, gratifying to the utmost their lust of power.

The Pope sent his bull to Robert Winchelsea, Archbishop of Canterbury, with instructions to deliver it into the king's own hand. Never was prelate more hardly beset. There was all the unpleasantness of conveying an unpleasant message to a man not blessed with a placid and forgiving temper, and there were the difficulties of the journey—for King Edward was away at the northern extremities of his kingdom menacing Scotland. The archbishop recounted all his difficulties and dangers to his master, and we thus get a glimpse of some of the physical and social conditions caused by the war. After having consumed several days in preparation for his formidable journey, he set off, apparently in the summer of 1300, and reached Carlisle in twenty days. There, to his dismay, he found that the king had gone with his army into Gallo-way. He met with some discreet laymen, and with clerical persons worthy of all confidence, from whom he found that the country swarmed with armed Scots; and even supposing him to get through with safety, there was no food in it for his retinue. No one, not even among the clergy, was zealous enough to carry a message intimating his arrival, or even endeavour to procure a safe-con-

duct for him. He fell at last on a shrewd device. Remaining at Carlisle, he sent two of his retinue by sea, who reached the army of Edward with much risk of capture, and with like risk brought answer to his question how he could with safety endeavour to get an audience. The answer sent him was, that the king could suggest no better way than this : the queen and he were on some future day to have a meeting, and the bishop might join escorts with her.

The prospect of this arrangement, however, was indefinite, and the inducements to wait on were extremely meagre ; for he mentions that, during nearly six weeks, while his messengers were absent, having to be so near the border of Scotland, he was glad to obtain sufficiency without aspiring at abundance of food. He heard at last that the king had come back to the Castle of Caerlaverock, which had some time ago been taken. He then managed to get himself and his equipage conveyed across the Solway at low tide, encountering more peril than he seems to have known of. And so the triumphant conclusion of his adventures was, that he unexpectedly came upon the king at dinner on the Friday after the Feast of St Bartholomew the Apostle, or towards the end of August.

He was called next day to a solemn audience, where the king was surrounded by the crowd of nobles and knights who, as we shall see, had attended him to the siege of Caerlaverock. The messenger read his instructions, and then reverently handed the admonitory bull of his Holiness to his Majesty. What we would expect in ordinary court usage is, that such a document should be passed on to a secretary to be kept for private perusal ; the king, however, directed the document to be publicly read, and then gave instructions for translating it into French. The messenger was then told that this affair of Scotland was one of those in which it was necessary for the king to consult the chief persons, ecclesiastical and temporal, of his kingdom ; that although several of these were present, many were absent ; and when there had been due and full deliberation, then would the king send by a messenger of his own an answer to his Holiness.

The first step taken was to let loose upon the Court of Rome the wrath of the English temporal barons. Nothing better served to rouse them into union and patriotic action than resistance to the encroachments of the Church, and they sent to Rome a memorable protest against this attempt to interfere with the feudal and constitutional prerogatives of the crown of England. King Edward was in the mean time anxious to prepare and set forth a convincing case in favour of his claims. He had already, as we have seen, obtained materials from the religious houses, but he wanted more, and their records were again ransacked. Rishanger, whose notes of what was passing are so valuable, was employed with other cunning scribes to bring the case to perfection. The result was a production, one of the most extraordinary, as a state paper, to be found on record, though people may be familiar with the greater part of its contents in other shapes.

After setting forth that the right of superiority in the King of England over Scotland was undoubted and notorious to all the world, and had been in active exercise by the removal and appointment of the rulers of that country at will—for the satisfaction of his Holiness, a brief narrative is put together to show the origin and antiquity of the right. It commences thus :—

In the time of the prophets Eli and Samuel there was a certain illustrious personage named Brutus. He had to abandon Troy after the destruction of that city ; and taking with him a following of noble Trojans, the band discovered a certain island, then called Albion, inhabited by giants. These were all defeated and slain by the Trojans, who, in honour of their chief, called the island Bruton or Britain, and they built the town of Trinovantum, now called London. Brutus had three sons, on whom he settled his possessions. To the first-born, Locrin, he gave that part of Britain called England ; to the second, Albanac, he gave Albany or Scotland ; and to the third, Camber, he gave Cambria or Wales. The important point to be kept in view at this stage is, that it was the invariable practice of succession in Troy that the eldest and his line should rule over the younger brothers and their de-

scendants. There were invasions of the new territory and other causes of disturbance, the particulars of which are set forth with a minuteness that seems to challenge criticism; but the result is, that as Locrinus was supreme over his brothers at the beginning, so did his descendants continue to be supreme over all other rulers in Albion. We come at last down to an epoch illustrious throughout the world by the deeds of the great King Arthur, who, indignant at the turbulence of the Scots, signally punished them, displaced their king, and appointed his follower Anselm to rule over them; and this Anselm did due feudal homage for Scotland to his lord superior, King Arthur, at a renowned festival held at Caerleon.

It is impossible to estimate the weight attributed to the next precedent, without remembering that King Edward was deeper even than his age in reverence for the later saints and their miracles. King Athelstane of England, it was said, had under the auspices of St John of Beverley subdued a rebellion in Scotland. Having finished his work, he prayed, through the intervention of the same St John, that it might be granted to him to receive a visible and tangible token, by which all future ages might be assured that the Scots were rightfully subject to the King of England. His prayer was granted in this way: Standing in front of one of the rocks at Dunbar, he made a cut at it with his sword, and left a score which proved to be the precise length of an ell, and was adopted as the regulation test of that measure of length. This miracle was attested by a weekly service in the church of St John of Beverley. He was perhaps the most powerful miracle-worker of all the English saints, and his triumphs in this line are amply commemorated by Bede. King Edward and some of his advisers would devoutly believe that this story of the miraculously-created ellwand standard would do more for his cause than his long array of historical precedents; but it may be questioned if the acute scribes working at the Vatican conceded so much influence to it, for they were apt to be perplexed and overburdened by such miraculous solutions of temporal difficulties.

King Edward's pleading goes on after this rather pro-

saically. The story of Edgar's boat rowed by a crew of kings on the Dee comes in, and then the successive events which have been alluded to in passing as points in the dispute. After the Conquest the acts of homage already referred to are all set forth as done for Scotland. Perhaps the most flagrant feature in the whole case is where the Treaty of Brigham, in which the Scots stipulated with so much suspicious precision for all the specialities of a separate nationality, is represented as a great national act of homage, in which the several Estates of Scotland, moved by a sense of duty, did of their own accord humbly approach the lord superior and devoutly tender to him their fealty and homage. Next comes the competition and the decision, followed by Baliol's unnatural rebellion. Here the case is strengthened by an indignant commentary on those outrages on the inmates of religious houses, male and female, which were so eloquently charged against the Scots soldiers by the English chroniclers, as we have seen. Nothing was said to the invitation to lay before the Holy Court the proofs of any claim which King Edward asserted over Scotland. After being finally adjusted, the case for the crown of England, bearing date the 15th of May 1301, was transmitted to Rome in the hands of an embassy suited to the solemnity of the occasion.

King Edward had meanwhile been strenuously working by special summonses, general commissions of array, and in other ways, to gather an army sufficient for an effectual and final invasion. Of the first blow he was enabled to strike—the reduction of the Castle of Caerlaverock, in Dumfriesshire—we are so fortunate as to have an extremely instructive narrative. The accounts of the earlier sieges of strong places of more historical eminence—Edinburgh, Stirling, Roxburgh, and Dundee—convey the impression that they were heterogeneous works, with little improvement on the old mounds of stone or earth; and it is in harmony with this supposition that no vestiges of them now remain.¹ Caerlaverock Castle still shows us a

¹ If the remains of Dirleton be a portion of the works besieged by

fine specimen of the later stage of the new system of fortification brought in by the Normans, and already spoken of as thickly strewn over England. Its strength was in towers of fine ashlar stone-work, extremely thick, with flanking towers to command all the wall-plates. This siege has a special historian, who describes the castle as shaped like a long triangular shield, with a round tower at each of the broader angles, and two round towers flanking the gate at the opposite point. The building had subsequently an eventful history, and we are told of heavy injuries to it, and even total destruction, yet the triangular shape is still retained by the older part; and the gateway, with its double tower, has all the appearance of having been built in Edward I.'s time.

We are told that in the year 1300, on St John's or Midsummer Day, King Edward held a court at Carlisle, and ordered a general muster against the Scots. The days were long and fine, says the chronicler, and all the mountains and valleys resounded with the neighing of horses, and were covered with waggons, sacks of provisions, tents, and all the other furnishings of war. The assemblage of the chivalry of England was almost unexampled in brilliancy, and the chronicler has preserved a roll of the names and heraldic achievements of the leaders, which has been a mine of wealth to adepts in heraldry in the present day.¹ The force was divided into four *batailles* or squadrons, and of the leaders and principal knights in each the historian of the siege tells us what they were in race and chivalrous renown: thus, "Edward, King of England and Scotland, conducted the third squadron at a little distance, and brought up the rear so closely and ably that

Bishop Beck, they must have been about as hard work as Caerlaverock, but we have not a distinct enough account of that siege to know.

¹ 'The siege of Caerlaverock, in the 28th Edward I., A.D. MCCC., with the Arms of the Earls, Barons, and Knights who were present on the occasion,' by Nicholas Harris Nicolas, Esq. He prints the Norman original with a translation, decorating the whole with facsimiles of the achievements. There is another edition by Thomas Wright, 1864, blazoned in colours.

none of the others were left behind. In his banner were three leopards courant of fine gold set in red, fierce, haughty, and cruel—thus placed to signify that, like them, the king is dreadful, fierce, and proud to his enemies; for his bite is slight to none who inflame his anger—not but his kindness is soon rekindled towards such as seek his friendship or submit to his power.” “An auxiliary force was commanded by Anthony Beck, Bishop of Durham, ever at hand when there was fighting.” He is described as “the most vigilant clerk in the kingdom—a true mirror of Christianity.”

The historian admired the strength and beauty of the castle, with its walls and ditches, and saw it was not to be taken like a chess rook. He describes the cutting down of trees and brushwood, and the building of huts to lodge the besiegers, and the arrival of vessels in the Solway Firth with the besieging engines. The foot-men were sent forward to begin the siege. “Then might be seen stones, arrows, and quarreus to fly among them; but so effectually did those within exchange their tokens with those without, that in one short hour there were many persons wounded and maimed, and I know not how many killed.” The rest became excited, and a general attack was made; the heaviest engines were worked in throwing stones, and when there was a good hit a great shout arose among the host. This seems to have gone on for a day or two, until three other engines were brought, “very large, of great power, and very destructive, which cut down and cleave whatever they strike—fortified town, citadel, nor barrier, nothing is protected from their strokes.” The Knight of Kirkbride excited the admiration of the historian: “Many a heavy crushing stone did he of Kirkbride receive, but he placed before him a white shield with a green cross engrailed. So stoutly was the gate of the castle assailed by him, that never did smith with his hammer strike his iron as he and his did there. Notwithstanding, there was showered upon them such huge stones, quarrels, and arrows, that with wounds and bruises they were so hurt and exhausted that it was with great difficulty they were able to retire.”

Where so great was the crowd of lords and knights that among them the chronicler blazoned more than a hundred achievements of illustrious houses, we must infer that the ordinary armed following was large. It was, in fact, with an army gathered for the conquest of Scotland that Edward besieged this remote castle on the Solway. When surrender was announced by a flag of truce, and the great besieging army took possession, the number of the surrendering garrison seems to have amazed the victors ; —as the historian says : “ And this is the number of those who came out of it—of persons of different sorts and ranks—sixty men, who were beheld with astonishment ; but they were all kept and guarded till the king commanded that life and limb should be given to them, and ordered to each of them a new garment.” Nothing should be said to diminish the warlike merits of the unknown sixty ; but the moral of the siege of Caerlaverock is, the potency, in the hands of resolute men, of the new system of fortification, which was just then crossing the border and appearing in Scotland.

Immediately after the capture of Caerlaverock came the consent to the extension of the French truce to Scotland, and the arrival of the Archbishop of Canterbury with his message from the Pope, as we have seen. The truce expired in the spring of 1301. At that time King Edward seems to have had the range of Scotland south of the Forth, for his writs are dated from various places there ; but the events of the following year show that the Scots, who had kept the northern districts in their hands ever since the battle of Stirling, were pressing southward. In the autumn of 1302, an English army was sent into Scotland under the command of John de Segrave, appointed governor of the province. He was accompanied by an important person, Ralph de Manton, or Ralph the Cofferer as he was called, because he was paymaster. We are told how this army, feeling in great security, was broken up into three divisions near Edinburgh, one under Segrave himself being posted at Roslin. All had been in winter quarters ; it was yet no farther on towards spring than the month of February, and no warlike operations

seem to have been expected. One day, as the English chroniclers tell us, a boy ran into the camp, telling, that from the top of one of the high banks abundant round Roslin, an army might be seen close upon them. It had come from the uplands of Peebles and Lanark, and fell on Segrave by surprise. He was wounded, and made prisoner along with twenty knights. Another of the divisions came up and released the captives, but seems rather to have suffered than to have inflicted punishment. The services of the third division, indeed, show that the others were in flight. This division had been hearing mass, undisturbed by the double battle, and after it was over were enabled to check the retreat of the other two divisions and punish their pursuers. Ralph the Cofferer was among the slain.

Any account we have of this affair is meagre and indistinct. We must depend on the English chroniclers; and all we can distinctly carry from them is, that their king's army was surprised, and had the worst part in the conflict.¹

Into some old accounts of the battle of Roslin it has found its way that Wallace was present and commanded the Scots force. It may have been so, but it is not sufficiently vouched to be admitted as a historical fact. The Scots chroniclers, Wyntoun and Bower, exalt this affair into a great battle and an eminent victory gained by the Scots; but as they accompany it with acts of extreme cruelty, their narrative of triumph may be abandoned without any sacrifice of the national honour.

¹ Hemingford, i. 199.

CHAPTER XXII.

WAR OF INDEPENDENCE TO THE DEATH OF EDWARD.

THE PREPARATIONS FOR FINAL SUBJUGATION—THE MARCH—THE SIEGE OF STIRLING CASTLE—INCIDENTS AND INFLUENCE OF THE SIEGE—ATTEMPT AT A MODERATE AND CONCILIATORY POLICY—AMNESTIES—WALLACE TO BE AN EXCEPTION—NOTICES OF HIS MOVEMENTS—HIS CAPTURE—CARRIED AS A TROPHY TO ENGLAND—PECULIAR POLICY IN THE FORM OF HIS TRIAL—HIS EXECUTION—ITS EFFECT ON HIS COUNTRYMEN—ORGANISATION OF SCOTLAND—INCORPORATIVE UNION—REPRESENTATIVES OF SCOTLAND IN A BRITISH PARLIAMENT—REVISAL OF THE LAW—THE GREAT ORDINANCE OF KING EDWARD—PREPARATIONS FOR AN INTERNATIONAL PARLIAMENT AT CARLISLE—THE NATIONAL FEELING—EDWARD'S IGNORANCE OF IT—BRUCE'S FLIGHT FROM LONDON TO SCOTLAND—A NEW CHAPTER IN THE WAR OPENED—ACCOUNT OF BRUCE'S POSITION AND CLAIMS—HIS ALLIES—THE SLAUGHTER OF THE RED COMYN—THE ENTHRONING OF BRUCE AT SCONE—EDWARD'S PREPARATIONS—HIS MARCH—HIS DEATH.

IN the spring of 1303, King Edward, free of all his embarrassments both abroad and at Westminster, was prepared to deal with Scotland once and for ever. He was at the head of a great army; there is no note of the numbers, but it is spoken of as beyond all possible resistance. There was in reality no resistance; and it is noticed, as an interruption to the king's progress at one point, that the Castle of Brechin held out until its gallant commander was killed on the wall. From the English chronicles we gather that this triumphant procession reached Caithness, and the same authority says, with the utmost brevity, that the army went burning and devastating; yet, though this is said from the side of England, it is insufficiently sup-

ported.¹ Had there been much wanton cruelty or destruction on Edward's march, it would have left its mark somewhere in contemporary documents : he seems, indeed, to have had an army too strong and well appointed to require to act the marauder ; and subsequent events show that it was not then his policy to exasperate the people. We hear of no attacks on stragglers—no commotion or bloodshed anywhere.

This was the second unresisted march which Edward had made over Scotland ; and indeed the Scots War of Independence, when once fairly commenced, becomes remarkable, among others with a like object, in the absence of all "teasing," as old soldiers used to call the petty conflicts which rise out of excitement and combativeness without giving a prospect of definite results. As the great king marched through the land with his fine army, it was not the time for resistance—this must wait its proper opportunity. Stirling Castle was the only strength that held out. King Edward passed it by both in going northward and in returning, reserving it to be dealt with afterwards. He made his headquarters at Dunfermline, and he is charged with the destruction there of a noble building—the Benedictine monastery—because the Scots had desecrated it by holding their rebellious meetings within its walls. It was an act not consistent with his civil policy ; but in a religious matter, such as the dealing with the conduct of others towards an ecclesiastical building might be, no one could count upon King Edward. Meanwhile he established his court at Dunfermline, and held it there so securely, and with such open communication with England, that at last his newly-married queen, Margaret of France, could safely join him, making that progress northwards which, as we have seen, appeared to be the only opportunity by which Archbishop Winchelsea could fulfil the duty laid on him of delivering the Pope's admonitory bull.

Comyn, who acted as chief guardian, and the other leaders of independency, seem to have been able to keep

¹ Hemingford, i. 205.

free of the conqueror's path. They formed a project for helping the defence of Stirling Castle by guarding the Forth, after the example of Wallace. King Edward, however, flanked them by crossing the river, whether at the Frew or some nearer ford, and the Scots troops dispersed, leaving Stirling Castle to defend itself. A sad interest surrounded this, the last spot of ground in all Scotland that did not belong to the invader. The castle stood a long and memorable siege. The obstinacy of the defence is echoed by the English chroniclers in their vauntings of the valour, skill, and engineering resources of the besiegers, and their exultation at the final capture. From their accounts of the siege we may infer that part at least of the castle works were on the new system of fortification. All novelties in the art of defence have their parallel in new systems of attack. When we hear of the throwing up of zigzag earthworks by engineers working in ditches, we know that these are approaches to the low bastioned fortresses of the Vauban school; and so when we find tall wooden towers erected, with machinery in them for casting missiles horizontally, we know that the tall buildings of the Norman school of fortification are to be attacked. Against these, with their thick walls of fine masonry, the old battering-ram of the Romans, made to drive a hole in a thin wall, was as harmless as a child's toy. The besieger had to meet his enemy aloft, parallel with the windows of his towers or with the roof, and only lofty piles with great projectile power could accomplish this. We are told that the stones or lumps of lead cast against the wall bounded back, leaving no mark, but those sent from above broke through roof and vault, and did vast mischief. Besides the strength of masonry, which was the sole difficulty at Caerlaverock, there was another in Stirling of a very formidable nature in the fortress standing on the edge of a steep rock. The engines brought up were marvels in their day for ingenuity of device and weight of metal. There was one that the chroniclers say could hurl stones of from two to three hundredweight.

King Edward was now sixty-five years old, yet his impetuous and determined spirit drove him to perpetual

activity and personal prowess in pushing this siege. He was repeatedly hit, and the chronicles record with reverence the miraculous interventions for his preservation. On one occasion, Satan had instigated one of the Scots to draw an arblast and aim an arrow against the Lord's anointed, who was riding exposed in the front. A devil's angel sped the shaft in so far that it pierced a chink of the mail, but then one of heaven's angels came to the rescue, and stopped it from penetrating the sacred body of the conquering king—for it is curious to observe that it is all along, not from the justice or holiness of his cause, but from his success as a conqueror, that these chroniclers treat his cause as a holy one, and denounce the resistance it met with as unholy rebellion.

Stronger evidence still of his fixed determination to leave no means untried for the reduction of the castle is his bringing the lead from the roofs of churches and religious houses in St Andrews and Brechin to be made into weights in working the siege engines. It was sacrilege, as he knew and keenly felt, but it was done. Nothing but unquestionable evidence would bring home such an act to one who so eminently conformed to the sanctities of his day. He authorised his son to get lead as he could, and if not otherwise, then from the churches. There is an item of reservation extremely curious,—care must be taken that the altars are not uncovered.¹ Yet this exception did not hinder the deed from weighing heavily on his conscience. Had there been no other testimony to the deed, it would have been revealed by the record of the liberal restitution which he afterwards made to the religious establishments he had so despoiled in his hour of emergency.²

Olifant, the governor, and his garrison, stood out

¹ Stevenson, Documents, ii. 481.

² In the Liberate Roll there is an order to pay a sum amounting in all to ninety-six pounds and fifteen shillings to the Bishop of Brechin and the Prior of St Andrews: "Pro plumbo quod dextrahi fecimus tam de ecclesiis quam de aliis domibus ipsorum Episcopi et Prioris apud Breghyn et Sanctum Andream."—Cited Scalacronica, Introduction, xvii.

against this desperate and unceasing work for more than three months. Yet the immediate presence of starvation, rather than the success of the assailants, seems to have driven them to ask for stipulated terms. The request was refused; they must surrender at discretion. When the garrison came forth they were only 140 men. Some twenty-four of superior rank appeared before the conqueror half naked, with ropes round their necks, and performed the humiliating ceremony exacted at that time from conquered garrisons.

With true Norman pedantry, a notary public of the holy Roman Empire docketed the act of submission as having taken place before himself and certain famous witnesses on the 24th of July, and on the eve of the Feast of St James the Apostle, in a valley, through which passed a road leading to a gate in the Castle of Stirling, within the kingdom of Scotland and diocese of St Andrews.¹

A touch of generous sympathy with the courage and dutiful endurance of these men seems to have reached the heart of the victor, and instead of ordering them for death, as all seem to have expected, he dispersed them in English prisons. King Edward felt so much beholden to those barons who had borne the brunt of the siege that he made a roll of merit, containing the names of Warenne, Lincoln, Gloucester, and others, all of whom were invited to make application to him for some special gift, or other reward for their services.²

But in truth his leniency to this garrison was one of the examples of a new policy towards Scotland which experience had taught him. Strengthening his hand to the utmost, he would yet lay it on gently, if not winningly. He was no Nero or Domitian, luxuriating in the mere lust of power, and besotting himself in bloody orgies. His ambition was to be an organiser and reformer—in his own way a benefactor to his race—and this passion was the

¹ *Fœdera* (Record edition), i. 965. The chief accounts of the siege are to be found in Hemingford, Matthew of Westminster, and Langtoft.

² Palgrave's *Illustrations*, cxxviii. 275.

real source of his severities. He saw before him the splendid vision of the British Isles under one scheme of strong orderly central government, blessing all classes of the community; and his fury when thwarted—his rage against the obstinate self-willed barbarians who baffled his wise projects—drove him to cruelty. He had now found that his projects, so far as Scotland was concerned, would thrive better under a milder policy, and, with one grand exception, he resolved to conciliate those even who had been in arms against him.

Before Stirling Castle was taken there had been a regular capitulation of the government and official staff who had professed to rule Scotland in the name of King John. It was solemnly ratified, in the presence of certain commissioners from the King of England, at Strathorde, on the 9th of February 1304. The names in this treaty deserve note as being those of the chief persons belonging to the Norman or Normanised aristocracy, who had been induced to cast their lot into the popular cause. They were Comyn, Lord of Badenoch, the acting guardian and governor, and Sir John Soulis, the Steward of Scotland, Wishart, Bishop of Glasgow, David de Graham, Alexander de Lyndesey, and Simon Fraser. These were to retain their lives, liberties, and estates; but to each there was assigned a nominal punishment, generally a short exile on parole—it was a mere mark put upon them as rebels received to mercy. There was one great exception—William Wallace, who was to remain at the king's will and grace. Whether the others who were parties to the transaction knew what this meant, it is impossible to say.¹ Nor can we tell whether, if he had delivered himself up and sought mercy, he would have found it.

¹ "Et quant a Monsieur Guilliam de Galeys est acorde qil se mette en la volunte et en la grace nostre Seigneur le Roy, si lui semble que bon soit."—Ryley's pleadings in Parliament, where the original document is printed as "*Forma pacis Scociæ in adventu Johannis le Comyn et aliorum*," 369-371. Some of the papers connected with the negotiation are given in Palgrave's *Illustrations*, 203. They bring in two other names of persons admitted to terms—Thomas de Bois and Sir John Mowbray.

Those who were thus received to mercy, even to favour, had thoroughly committed themselves in arms—in rebellion, as it was counted—against the king. We must go further, therefore, than any question about the mere extent of personal criminality attributed to each. The men belonging to the class of Norman barons had yielded to temptation and gone over to the popular cause in Scotland, instead of holding by their legitimate lord. But in feudal notions there was some palliation for what they did. They had lost the protection to which they were entitled in return for the fealty. The popular party had virtually taken Scotland from the hands of Edward, and their interests lay with the power that could command their estates. Now the power of Edward was effectually restored, and they might be counted on to return to their natural position. Wallace, on the other hand, was the one great representative of the popular nationality, the real difficulty with which King Edward felt that he had to deal in Scotland. He was going to deal with it moderately and leniently, but he would show, in the first place, a terrible warning to those who might obstinately stand in the way of his projects.

Whether Wallace had been absent in France or Italy soon after the battle of Falkirk, he was in Scotland during these proceedings. There are faint traces of his keeping to inaccessible districts, with an armed following, and it is quite natural that some of his old followers should gather round him.¹

¹ There is a very tantalising reference to his motions in a collection of miscellaneous fragments from the Public Records of England, printed in 1865. It is called "*Calendarium Genealogicum*," and consists of such notices of persons and families, with their possessions, as are found in the proceedings of inquests on succession of heirs, boundaries of estates, and the like. Among these comes up, on Wednesday after the commemoration of the beheading of John the Baptist, in the 33d year of Edward I.—that is to say, in the beginning of September 1305—an inquest held at Perth by Malice, Earl of Strathearn, custodier of the northern districts in Scotland. This inquest appears to have been transmitted to some tribunal in England as the excuse of a certain Michael de Miggel, whose attendance was due, but not given. It was sworn to on oath that he had been seized by William

The capture of Wallace was now the chief immediate object of King Edward. Presently after the siege of Stirling, we find him exhorting those who had just experienced his clemency to aid him in this good work, and promising that it would be profitable to him who should be successful, either in the shortening of his exile, or in some other shape.¹ Wallace was found in Glasgow. The chief person concerned in his capture—the leader, as it would appear, of the party told off for that duty—was Alexander de Monteith. Of certain rewards given to the captors, he had the largest share. As his name was afterwards a common one in Scotland, it became part of the romance of Wallace's career that he was betrayed by a fellow-countryman and an old companion in arms; but Monteith was in the service of Edward: he held the responsible post of Governor of Dumbarton Castle, and it seems likely that he only performed a duty—whether an agreeable one or not.² The captive was taken southwards, and on the 22d of August carried through London, at-

le Waleys by force of arms—he, the said Michael, not consenting to such seizure. He had made his escape, and, in fact, got some two leagues off, when certain armed men, accomplices of the said Waleys, brought him back to their leader, who threatened to kill him if he attempted again to escape. He did in fact, however, again run away, and got three leagues off and more, when he was again caught, suffering great violence and injury from his captors; and on this occasion he verily believes that Waleys would have slain him, but for the intervention of some of his accomplices: so was Michael de Miggel prevented from attending according to his duty. The time at which he was thus seized is no otherwise indicated than by *dudum*, which may be translated “lately.” The question is, whether the *dudum* can be stretched more than seven years to reach the time when Wallace was in power, or must be held to refer to incidents a few weeks or months before the date of the inquest, which was held just a few days after Wallace's execution.—*Calendarium Genealogicum*, 703.

¹ Palgrave's *Illustrations*, cxxix., 276.

² In the curious scraps preserved by Sir Francis Palgrave, there is a jotting, probably from some Treasury memoranda or scrolls, of forty merks to the valet who spied out Wallace, and sixty merks to be divided among the other captors. Then follows: “De la terre, c'est a savoir C livres pour Johan de Meneteth,” p. cliv and 295.

Langtoft says the actual securing of Wallace was effected through treason of John Short, his man. This may or may not be the name

tended, like Caractacus in Rome, by a great crowd of citizens. He was secured in a house belonging to a citizen of London, William de Leyre—in Farringdon as it would seem.

A special commission was issued to five persons, three of them to be a quorum, to act as justiciars in the king's charge against William Wallace. They were John de Segrave, Peter Maluree, John de Bacuelle, Ralphe de Sandwyc, and John le Blound, Lord Mayor of London. He was put on trial in Westminster Hall, on a bench at the east end, as the chronicles say. They give, too, a story difficult to account for, how there was a wreath or coronet of laurels placed round his head on the occasion. The reason given for this is, that he had boasted in his triumphs, that he would wear a crown in London—and so his boast was fulfilled. Anything more unlike the character shown in Wallace's career cannot easily be conceived. Yet, on the other hand, it is not consistent with the practical and grave character of King Edward that he should have played this fantastic trick without a sufficient reason.

It brings us closer to the point to look at the few traces we have of the accusation and judgment. A deep policy runs through the form adopted. The captive was not to be treated as a prisoner of war at the disposal of the executive; he was to be regularly tried on indictment as a subject of the King of England who had committed certain offences. He was not, however, permitted to plead

of the "vallet qui espia William de Wallaise" in the Palgrave Fragments.

This story of Langtoft's is the earliest in which the seizure of Wallace is attributed to treachery. With the chronicler, however, the event points a moral, in showing how it is the fate of murderers, thieves, traitors, and other criminals to be betrayed by their accomplices in crime :—

"A Jhesu whan thou wille hou rightuis is thi mede,
That of the wrong has gilt, the endyng may thei drede.
William Waleis is nomen, that maister was of theves,
Tithing to the kyng his coven, that robber mischevos;
Sir John of Mentest served William so nehi,
He tok him when he wend lest, on nycht his leman li—
That was throught treson of Jack Short his man,
He was the enchesen, that Sir John so him nam."

—Langtoft's Chronicle, 329.

to the indictment, because it was utterly adverse to the law of England that an outlawed person who had not been received to the king's peace should be permitted to plead. This method gained a judicial precedent for trying a native of Scotland before an English tribunal for offences committed in Scotland against the King of England, and it as completely stopped all inconvenient discussion as if the prisoner had been knocked on the head when he was taken.

In charging the prisoner with treason and rebellion against him, King Edward puts forth no better claim to his allegiance than that of conquest. He had subjugated by force of arms John Baliol, with his magnates, ecclesiastical and secular, and the whole community of Scotland; and after he had so conquered the country and reduced it to his peace, this Wallace, the prisoner under trial, had arisen and striven against him. It was further stated against the accused that he had worked to bring the community of Scotland under the authority of the King of France, whom they were to assist in the destruction of England. Then came a rapid denunciation of the raid into the northern counties of England, with the scandals of rapine, cruelty, and sacrilege with which, as we have seen, the English chroniclers burden it; and indeed it would seem that these chroniclers took their tone from the tenor of the indictment against Wallace. To these accusations the terms of the sentence respond in a shape as grotesque as it is horrible. The traitor's doom of disembowelling during life is awarded; and this reason is specially given for it, that it is to be symbolical, in the destruction by fire of those inner organs which prompted him to the sacrilegious burning of the shrines and reliquaries in which were preserved the body of Christ and the bodies and relics of saints.¹

¹ "Et postea pro immensa vilitate, quam Deo et sacrosanctæ ecclesiæ fecit, comburendo ecclesias vasa et feretra in quibus corpus Christi et corpora sanctorum et reliquiæ earundem collocabuntur, cor hepar et pulmo, et omnia interiora ipsius Willelmi, a quibus tam perversæ cogitationes processerunt, in ignem mittantur et comburentur." The "corpus Christi" meant, we may suppose, the consecrated elements.

There was also to be a symbolical application of the parts of the body unburnt. They were to be distributed over England and Scotland, in token that his crimes had been committed not solely against our lord the king, but against the whole population both of England and Scotland: wherefore his head was to be placed on London Bridge; one quarter was to be suspended on a gibbet in Newcastle-on-Tyne, another was to be exposed at Berwick, a third at Stirling, and the fourth at Perth. The sentence was executed on the 23d of August, and it is one of the kind about which ordinary people generally entertain a hope that the humble ministers of justice who give effect to it lag behind the cruel spirit of the law, if they do not even take occasion to soften the letter of it.

The death of Wallace stands forth among the violent ends which have had a memorable place in history. Proverbially such acts belong to a policy that outwits itself. But the retribution has seldom come so quickly, and so utterly in defiance of all human preparation and calculation, as here. Of the bloody trophies sent to frighten a broken people into abject subjection, the bones had not yet been bared, ere they became tokens to deepen the wrath and strengthen the courage of a people arising to try the strength of the bands by which they were bound, and, if possible, break them once and for ever.¹

King Edward was already busily carrying out his new policy. It was much of the nature of a partly federal, partly incorporating union. There was to be one king over the whole island, and one great council or parliament. The crown was to be represented in Scotland by a governor or lieutenant. He was to be assisted by a council—not of the nature of a parliament with a deliberative voice, but a small body selected by the crown to give advice in

¹ It is singular that among the many records of the period so carefully preserved there is none of the process against Wallace. The above account has been taken from an unauthenticated manuscript, bearing to be a copy of the principal parts of the record of proceedings, which has been preserved, and is printed in the Wallace Papers, p. 189. It bears marks of authenticity, which are strengthened by a comparison of its contents with the shorter accounts in the chronicles

aid of the executive government. In the selection of that council the king showed his reliance on the co-operation of the great churchmen and barons in his new plan. The council selected by him all bore titles thoroughly Scotch, and among them were some of those who had but just laid down their arms and accepted of his clemency.¹

In an English parliament which assembled early in the year 1305, the king called for the advice of the Bishop of Glasgow, the Earl of Carrick, and John de Mowbray, on arrangements for having Scotland represented in a parliament to be afterwards called. These advisers reported on some matters of detail and practicability; it would not, for instance, be practicable to have meetings for election before next Ascension-day, nor could those chosen be well in attendance at London until after the Feast of the Nativity of St John the Baptist, or midsummer. The amount of representation to be conceded to Scotland was then settled, and, if we are to believe the record, was an echo of the report presented by the three advisers. There were to be in all ten representatives: there were to be two selected by the prelates, two by the abbots, two by the earls, two by the barons, and two by the community or commonalty—one for the district north, the other for the district south, of the Forth. The advisers recommended that these representatives should be refunded their personal expenses for attendance in England; and it was directed that these should be paid by the lieutenant and treasurer of Scotland out of the funds at their disposal. Writs were then issued for the attendance of the electoral colleges, as they would be called on the Continent, at Perth, to appoint representatives to attend the king's parliament in London within three weeks after St John's Day.²

¹ "The council were—the Bishops of St Andrews, Dunkeld, Aberdeen, and Ross; the Abbots of Melrose, Cupar, Jedburgh, and Dunfermline; Bruce, Earl of Carrick; the Earls of March, Buchan, Athole, and Ross; Sir John Comyn, Sir John de Mowbray, Sir Alexander de Argyle, Sir John Monteith, Sir Duncan de Fren-draught, and Sir John de Inchmartin."—Palgrave's Documents, clii., 292.

² Ryley's Pleadings, 241, 279.

The representatives chosen under this franchise were the Bishops of St Andrews and Dunkeld, the Abbots of Cupar and Melrose, and the Earls of Buchan and March. For the barons, they were John de Mowbray and Robert Keith; and for the commonalty, Adam Gordon and John of Inchmartin. Unfortunately we have no information as to the form and method of this general election.

When the parliament assembled for business, which was not until the month of September, the representatives for Scotland were all there, save the Earl of March. The king appointed John de Monteith to serve in his stead. Twenty of the English members were appointed to act with them in a joint committee of conference, and the fruit of their deliberations was the issuing of a royal ordinance for the government of Scotland.¹

The ordinance begins with the appointment of John of Bretagne as guardian or lieutenant of Scotland. The offices of chancellor, chamberlain, and comptroller are next filled. Six justices are to be appointed—two for the districts south of the Forth, two for the districts between the Forth and the Grampians, and two for the north. It is decided that the resident sheriffs shall be either natives of Scotland or Englishmen; they are to be appointed by the crown, and removable at pleasure, and are to be men of position, capable of good service to king and people. This rule would have been equally distinct had nothing been said about national qualification for the office; but the mention of natives of Scotland, even in this dubious fashion, had something in it of a soothing tendency; and it is repeated in reference to other offices, such as that of the Coroner, soon afterwards dropped out of use in Scotland. Special order was taken for the disposal of places of strength, and governors were appointed to them.

After the adjustment of the official establishment, the state of the law comes up for consideration. The old

¹ "Ordonnance faite par Edouard Roi d'Angleterre sur le gouvernement de la terre d'Escosse," in the first volume of the Scots Acts. This is the most authentic version of the ordinance. It has generally been cited from Ryley, p. 503.

code of laws of the Brets and Scots is to be cancelled, as unsuited to the civilisation of the period.¹ When the lieutenant or governor returns to Scotland he is to take counsel of the good men of the country, and to prepare and submit to the king a report on the laws sanctioned by King David, and any additions made to them in later times. Such things as are found contrary to the law of God and to sound reason are to be rejected. The lieutenant and his advisers may find some on which they cannot come to, or will not venture on, a conclusion on account of their importance. These they are to report to the king as matters undecided, along with their report on those parts of the laws and customs of Scotland which they recommend for adoption in permanence. The ordinance, after these general provisions as to the laws which are to be in force in Scotland, puts some restraints on dangerous persons, and gives a general power and recommendation to the lieutenant, with the counsel of the good men of the land, to send troublesome persons into England, where they will have to abide southward of the Trent.

The ordinance is not a logical or methodical document. It mixes up the broadest projects of legislation and administration with mere personal interests and arrangements. But it bears the impression of a high intelligence and a far foresight, mellowed by beneficence and even kindness. The author of it sees that, once brought together, without violence or goadings to national antipathy, the two nations would naturally co-operate and fuse into one compact empire; and no one could be more alive to the mighty destinies that such an empire might have to look to. Had he begun in this spirit, there are many things to render it credible that he might have been successful. A nationality distinct from and antagonistic to that of the English people had not been made before the death of Alexander III. The Scots looked to King Edward with a paternal feeling, and had a leaning to the English institutions. Of these they were never afraid;

¹ See chap. xvi.

and if they could have felt assured of retaining such freedom of action as these or their own native institutions gave, they would not have been apprehensive of innovation. What they dreaded was the prerogative power, royal and baronial, which the Normans brought by innovation on the original laws and customs of England. In the discussion of the succession, and in the military occupation of the country, these were set, in their most offensive shape, face to face with the people of Scotland. Throughout the twelve years' contest, too, they were reminded over and over again of those innovations, with which their neighbours were still at war. They knew that when the King of England found difficulty in gathering a sufficient force for crushing them, it was because he was haggling with his own people about demands for the renewal of the Great Charter and the limitation of the Forest Laws; and these reiterated demands were nothing but the lamentation and denunciations of the people of England for the rights and liberties of which they deemed they had been robbed.

For twelve years Scot and Englishman had drawn each other's blood; it was long enough of such work to make a national hostility. Conciliation came too late. It may be questioned if Edward knew this. He was preparing for a great union parliament at Carlisle, where more still was to be done for the fusion of the two nations. The administration of business in Scotland seems to have been going on quietly and regularly. The king, now nearing seventy years of age, might have reason to expect a peaceful evening to his stormy life, gladdened with the reflection that, if his treatment of Scotland had at first been marked by a necessary hardness, he had moulded his acquisition for the attainment of a goodly future by acts of mercy and justice. Whatever were the dreams of the conqueror and pacificator, he was suddenly awakened from them. One day in the beginning of February 1306, Robert Bruce, Lord of Annandale, was missed at court, and it was found that he was off for Scotland. It was clear that a new act in the drama of the Scots conquest had opened.

Before following the adventurer on his career, let us look at the position in which recent events had placed him. We have seen the figure made by his grandfather, fifteen years earlier, as a competitor for the crown before the court established by King Edward as lord superior. The grandson was born in 1274, and so would be a young man some seventeen years old when his grandfather was pleading before King Edward for the kingdom of Scotland, or for a part of it if he could not get the whole. The intermediate Bruce, the son of the competitor, was a quiet unambitious man. He went to the wars in Palestine—but in that he was only conforming himself to the usage of the day; and when he returned he lived peaceably in the enjoyment of his wealth and honours. He was known, indeed, for nothing else so remarkable as his romantic marriage to the mother of the hero.¹ He was but for a short time head of the house. His father died

¹ The following is a fair rendering of the accounts which the chroniclers give of this incident:—

“As the Scots had declared their readiness to sustain their part in the crusade, it was incumbent upon them to fulfil their promises, and accordingly several of their principal nobles, assuming the cross, departed with their followers for Palestine. Amongst the number of crusaders who never lived to return was Adam de Kilconcath, Earl of Carrick in right of his wife, Marjory, the heiress of the late Earl Nigel. About two years after the death of Earl Adam, his youthful widow was engaged in a hunting excursion, with a gay and gallant company of ladies and esquires in attendance, when a handsome cavalier of noble and distinguished appearance cantered across her path. The countess saluted the knight, and as the courtly manners of the day required, he returned the lady's greeting according to the agreeable custom of the age, but excused himself from joining in the chase, until Marjory, unaccustomed to refusal, laying her hand upon the bridle, turned his horse's head with gentle force, and galloped off with her captive to Turnberry Castle. The countess had secured her prize; and after a fortnight's imprisonment in the lady's bower, the young heir of Annandale and Cleveland capitulated, and became the husband of his adventurous captor. Alexander was furious at such a breach of feudal decorum, threatening, as a punishment, to confiscate the earldom; but he suffered himself to be appeased by the entreaties of their mutual friends, and contented himself with levying a considerable fine upon the enamoured delinquents. The eldest son of this singular and romantic love-match was the illustrious Robert Bruce.”—Robertson's *Early Kings*, ii. 109, 110.

in 1295, and he died about ten years afterwards. It is said that during his lifetime he transferred his estate and title of Carrick to his son ; but this was his wife's inheritance, and may have gone to her son by the nature of the investiture. The father is thus, in the narratives of the time, called Lord of Annandale, and the son Earl of Carrick until the father's death.

King Edward did his best to train the young man in his own court as an Anglo-Norman baron. The king seems to have had a fellow-feeling for his ardent, hardy nature, and to have looked forward to distinguished services from a retainer of such mettle ; but was he to be a retainer ? Throughout their intercourse there are ever symptoms of uneasiness and uncertainty about young Bruce shown by Edward and his chief advisers. Thus, when the disturbances under Baliol's short reign began, the Bishop of Carlisle sent for Bruce as a measure of precaution, and perhaps of kindness, and got him to take special oaths of allegiance. On that occasion he was accused of unworthily, for the purpose of demonstrating his loyalty, attacking the lands and household of Douglas as a supporter of Wallace. The Bruces were decidedly at that time Edward's men ; and it is even said that their estates were nominally forfeited by Baliol's government as those of enemies to their country. As a retainer of the court and an English noble, young Bruce ever received encouragement from Edward, who, on the other hand, naturally repressed his influence as a great feudal lord in Scotland. For instance, among his possessions in Aberdeenshire, Bruce held Kildrummy and its castle. The ruins of that building show it to have been a great castle, of enormous strength for the period, constructed on the new system of fortification which, during Edward I.'s time, penetrated into Scotland, and it is probable that it was built by the Bruces. It did not suit King Edward's views that this strength should be at the absolute disposal of its lord, and so he required by the ordinance for the government of Scotland that it should be committed to proper hands.

Nothing was likely to make Bruce forget the tradition

of his house, that his grandfather had been nominated heir to the crown by King Alexander and his parliament; and the pleas on which that grandfather pleaded his right of succession were as strong as ever. The other competing families had all dropped out of the contest save the Comyns, but they were formidable rivals. Comyn the competitor, as we have seen, had a claim which could only stand after Baliol's, since they were descended of two sisters, and Comyn of the younger. Baliol was now out of the field, not merely by the feudal proceedings taken against him by King Edward, but by a voluntary resignation of his right of inheritance. Supposing this to be effectual, and no one gainsaid it, it removed the line of succession to which that of the Comyns was subsidiary. But further, Comyn the competitor married a sister of Baliol, and their son, called the Red Comyn, had thus an additional claim to represent the rights of the deposed king.¹ Then there was a mysterious tradition of his descent from Donald Bane of the old royal line; and though this went for nothing before the court of the lord superior, it might avail with a people eager to be led against their enemy and craving for a leader. Here then, altogether, Bruce had a formidable rival.²

Comyn's demonstrations for the national cause had been much stronger than Bruce's. He was with the host that swept the northern counties of England, and he afterwards acted as guardian or governor of Scotland, and

¹ A chronicler who was born about this time says: "Johan de Baillof avoit iii sores, la primer, Margaret la dame de Gillisland, la second fust dame de Counsy, la tierce avoit Johan Comyn a marry, pier cely qi Robert Bruis tua a Donfres."—*Scalacronica*, 121.

² There were several wealthy and powerful families of the name of Comyn in Scotland, but John, Lord of Badenoch, was the historical Comyn, from his connection with royalty. It may be well to keep him distinct from another very powerful lord of the name, John, Earl of Buchan, the Constable of Scotland, who seems to have been a steady follower of King Edward. Supposing that in the reign of Alexander III. the several families of the name of Comyn had acted together in a group, it would appear that, changes in the lapse of time separating them from each other, their descendants each followed his own policy.

presented a hostile front to Edward on his invasion. We have seen that for all this there was but a nominal infliction laid on him, and he was received to favour. He was of the Norman school, not likely to feel any national antipathy to the supremacy of Edward, and it may be that his master could ill afford to quarrel with one who could be so effective a rival to the unsatisfactory Bruce.

We have seen that Lamberton, Bishop of St Andrews, was a zealous partaker with Wallace in his struggle for the purely national party. Whether it was by the bishop's advice or not, Bruce met him at the Abbey of Cambuskenneth, the scene of Wallace's great victory, in June 1304, and there the two entered into a league with each other, which was put in writing and sealed and authenticated by all the solemnities of the period; it is the earliest existing specimen of a kind of document which we shall frequently meet with afterwards. There are no engagements as to any distinct course of action, but the two bind themselves to general co-operation. Having discussed possible future perils, they resolve to aid and comfort each other when these come to pass. They are to stand by each other against all enemies; if either hears of any danger to the other, immediate warning is to be sent and co-operation given in averting it; most material clause perhaps of all—neither is to undertake any serious affair without taking counsel with the other. They bind themselves to this obligation by solemn oath. At the same time, as in any such modern contract for the supply of certain goods as a court of law would give effect to, either party failing to keep the engagement is to be subject to a pecuniary penalty—it is fixed at ten thousand pounds. The purpose it was to be put to when secured, takes us back from the attorney's style-book to the age and its conditions. The money was to be applied for the recovery of the Holy Land, and be dropped into the great fund lost in the crusades.¹

There was much more in such a document than it ex-

¹ Lord Hailes seems to have been aware of this document (i. 342). It is given at length by Sir Francis Palgrave.—Documents, 323.

pressed. Subsequent events show that Lamberton represented the feeling of the churchmen, who had their own ecclesiastical independence to protect, and had already felt that the King of England would fain displace them for English subjects on whose conformity and co-operation he could rely. Then the allegiance of the Church to Bruce meant a great deal more than spiritual or ecclesiastical support, important as that might be. The religious houses held large baronies, and could call out a great proportion, probably not much less than a third, of the fighting men of the country. It would be serious, then, for both parties, if rumours of such an alliance should reach King Edward's ears. In fact it became known that he had taken Bruce in a very menacing manner to task about some document to which he had become a party. There can be little doubt that it was the bond, for we know that Edward had the original of it in his hand, and it is on record that the other party, the bishop, was closely questioned about it.¹ It is said that Edward, having on the same day made rather free with the wine-flask, dropped words which showed that Bruce was in imminent danger of his life. A friend at court, the Earl of Gloucester, as it was said, sent him a symbolical warning—a sum of money and a pair of spurs. Bruce took the hint, and resolved to be off by morning. He took two followers with him. There was snow on the ground, and to baffle any attempt to track him out of London, he had the horses shod in the reverse of the usual manner, so that the marks might seem those of horses on their way to town. Some of these particulars are traditional, and so is the story that the three met and slew a messenger whom they found on his way to court with dangerous papers from Comyn. Bruce halted at Dumfries. He must have known that he would find Comyn there—in fact the English judges were sitting in assize in the town; and the presence of two barons who had lands in the neighbourhood would create no surprise, but might be set down as a demonstration of

¹ Sir Francis Palgrave gives the bond and the cross-questioning of the bishop as certified in a notarial instrument.—Documents, 323.

loyal duty. The two met in the church of the Minorites or Grey Friars. Their conversation came to high words. It is difficult to have clear evidence of what is said on such occasions, but we know the rumour of the day as to the nature of the conversation, and it was this: Bruce spoke of the miserable prospect of Scotland, once a sovereign state, now nothing but a province of England, and showed how they two, powerful as they were, if they would work in common, might restore the old kingdom. He then made an offer. Take my estates and help me to be king, or, if you prefer it, I shall take yours and support your claim. Comyn objected, professing duty and loyalty to King Edward.¹ Bruce charged him with betraying certain secrets of his, probably the bond with Lamberton; and then, as the talk became fiercer and fiercer, Bruce drew his dagger and dealt the other a blow. When he came forth and joined his friends they saw that something was amiss, for it was a question of sacrilege, far more serious than murder. Bruce said there was something much amiss; he feared he had slain Comyn; and thereon one of his followers named Kilpatrick, who would have no doubts about such a matter, said, "I mak sikar"—I make secure—and slew the wounded man outright.² Comyn's uncle was killed beside him. At this their first taste of blood a sort of frenzy seems to have seized on the party, and they immediately attacked the place where the English judges were sitting. These, astounded by the suddenness and ferocity of the onset, and knowing that they were in a country never safe, surrendered. To make

¹ Such is the account given by Sir Thomas Grey, the Northumbrian knight already referred to (p. 184), a man likely to be well informed. —*Scalacronica*, 130; Leland, *Collectanea*, 502.

² The crest of the Kilpatricks or Kirkpatricks of Closeburn is a hand with a dagger erect in pale dropping blood, and their motto is, "I mak sikar." The late Charles Kirkpatrick Sharpe, one of the gentlest beings that ever existed so far as anything like physical violence was concerned, stood sturdily up for this story and his own descent from the perpetrator. See the notes he supplied to Scott's 'Lord of the Isles,' on

"Vain Kirkpatrick's bloody dirk,
Making sure of murder's work."

captives of them would be inconvenient, and they were driven across the border.

This was an unpropitious beginning, but it was more emphatic than even the crossing of the Rubicon, and left no alternative but to go on. The sacrilege was a serious blot, which would be employed to its utmost at Rome and elsewhere, but it was not irremediable. There are many symptoms that the Scots people of that day were not ardent devotees of religion, or as some people, looking to the kind of religion then prevalent, would call it, of superstition. The charges made, both in the chronicles of the day and in the state papers, against the Scots as a blasphemous and unholy people, given to sacrilege, would not have been so steadily reiterated if there had not been some ground to hold them a people less religiously inclined, at all events, than the English. The question how far the desecration of the church would tell at Rome would be easily decided by consulting the friendly Lamberton; and he from the first seems to have felt no difficulty about putting the matter right.

The news that a stand had been made against the English invaders flew like wildfire over Scotland, and the people rose so tumultuously and threateningly that Edward's English servants, save where they were protected by fortifications, were glad to hurry out of the country. Bruce immediately took up his headquarters in his own Castle of Lochmaben. The remains still visible show us a building of that age raised on the new and formidable system of fortification which had come over from England. Two hundred miles farther north, in his earldom of Mar, he had his other castle of the same kind, Kildrummy, and he does not appear to have yet given it into other keeping, according to King Edward's order. We must count that a great part of Bruce's subsequent success depended on his holding for some time these strong fortresses.

The way being clear, it was resolved to take a decided step, and solemnly inaugurate Bruce as King of Scotland, according to the old traditional forms of such an occasion, so far as these could be effected. The ceremony dates on the 27th of March, some six weeks after the slaughter of

Comyn ; and the place chosen for it was the Chapel Royal of Scone, sacred from time immemorial to the inauguration of the Kings of the Scots. The old Stone of Destiny was absent, so were the crown—if there was one—and the royal robes. For the sacred stone there could be no substitute ; but the Bishop of St Andrews contrived to make some show of other pomps from his episcopal wardrobe. Besides the influence of the Stone of Destiny, there was another time-honoured element in the complete investment of a King of Scots which was supplied in a curious way. It was the office and privilege of the Clan Macduff to place the crown on the royal head. So absolute was this, that when, at the coronation of John Baliol, the head of the house of Macduff was a minor, the appointment of a substitute to act for him was an affair of ceremonial difficulty. He had now reached manhood, but there might be many reasons why his attendance could not be obtained on such a sudden emergency. His sister was married to the Earl of Buchan, a stanch retainer of King Edward. She set off for Scone and arrived in time enough to perform the mystic functions of the Clan Macduff when, as it would appear, the ceremony had been completed so far as it could without her aid. The English chroniclers say that she drew largely on her husband's stables, and clattered through the country at the head of a noble cavalcade. There were other surmises and suspicions, but they seem to have no better foundation than the strangeness of the act. The most charitable interpretation that the English chroniclers could give it was that the natural had got the better of the domestic sympathies. But there was some influence more distinct than this that cannot now be traced. We cannot understand the full compass of the veneration, superstition, or whatever else it might be called, that, on the one side, gave the use of the fatal stone and the services of the Clan Macduff a popular influence over the country, and, on the other, prompted the heroic Countess to do the act she did, with all its strangeness and all its perils.¹

These events, treading on each other's heels, were

¹ See on the Clan Macduff and the Stone of Destiny, above, p. 174.
VOL. II.

astounding news to King Edward. He must have known the temper of the people; and remembering how troublesome they were, even when led by an obscure man from the ranks, he could not but see how formidable was the difficulty now that they had among them a crowned and legitimate king. King Edward was then at Winchester, shaken by sickness and bowed by care, getting his way back to London with extreme difficulty, to take steps to meet the new emergency. But if for no worthier things, there was room still in his frail body for hatred and ferocity. The short-lived projects about conciliation and gradual amalgamation dissolved at once; and it is observable that henceforth to his death the fiery rage of the king is visible even through the decorous formality with which the royal scribes were bound to prepare the royal proclamations. In his pious mind the rising would be aggravated, if aggravation were possible, by the conditions of Comyn's slaughter. One of the earliest acts of his vengeance is a deep stain on his chivalry. The Countess of Buchan was caught, and Edward devised a special and ingenious punishment for her. He gave orders for the preparation of a cage—"kage" it is called in the Norman-French of the warrant—of spars; it was to be large enough for a proper chamber, and to be attached to one of the towers of Berwick, and so guarded and placed as to prevent her holding converse with any one but her immediate attendants, who must not be natives of Scotland; and in this she was imprisoned. We are not told so in the minute instructions for the making of the cage, but the English chroniclers tell us that the cage was so hung that she could be seen by passers-by; and the object of restraining her in this form seems to have been that she might be a common spectacle, and an example of the fate in store for those who thwarted the will of Edward.¹ To such acts

¹ "In domuncula quadam lignea super murum castri Beriwicki posita est, ut possent eam conspiciere transeuntes."—Rishanger, 229.

"Sub dio forinsecus suspendatur, ut sit data, in vita et post mortem, speculum viatoribus et opprobrium sempiternum."—Mat. Westm., 455.

Anything that can be said in mitigation of so odious an act is always

could baffled ambition bow the chivalrous knight, who had wept over the loss of his loved Eleanor, and had given such expression to his sorrows as made her memory renowned to after-ages.

Aymer de Valence, Earl of Pembroke, was sent to be Governor of Scotland in place of John de Bretagne, who appears to have been driven forth by the Scots. An ordinance was issued, very different in tone from the pacifying ordinance of the previous year, and much shorter. First, it was to be proclaimed through all cities, towns, and burghs, and by the justices on their circuits, that all those who were in arms against the king were to be pursued and taken, dead or alive; they were to be pursued by hue-and-cry from city to city, from county to county, from place to place, and those who did not join the chase after them were to forfeit their estates and be imprisoned. If any sinned further and harboured the rebels, they were to be punished at the discretion of the governor. Next, all who had any concern with the death of Comyn were to be drawn and hanged, and the same to any who gave them countenance or comfort. All taken in arms against King Edward, and all giving shelter to persons in arms, were to be hanged or beheaded. For those who had taken arms, but so far returned to a sense of duty as to surrender, there were punishments short of death.¹ A speedy application was made to the Pope for letters of excommunication against Bruce for sacrilege, and they were granted, with unusual promptitude, on the 16th of May. They directed the Archbishop of York and the Bishop of Carlisle, in consideration of the slaughter in the church of the

welcome. It is not in the instruction that the cage shall be in the open air and visible to the passers-by, and therefore the chroniclers may be mistaken. The place for the cage is "*en une des turelles dedenz le chastel*" (*Fœdera*, Record edit., 995). A cage made secure in itself—and the instructions are to make this absolutely so—is rather anomalous within the tower of a castle, and seems a work of supererogation. Perhaps, however, we may infer that it was within the castle wall, and that the exposure to passers-by was limited to those who frequented the castle.

¹ Ryley's Pleadings in Parliament, 510.

Minorites, to excommunicate the Earl of Carrick by the usual sounding of bells and burning of candles.¹ This bull has not the appearance of having been issued in a knowledge of the political conditions of England and Scotland; there had been a murder in a church, reported to the Holy Court by a sovereign, and the usual anathema was immediately issued. The bull seems to have had no effect in Scotland, where thick-coming events gave more immediate occupation to people's thoughts.

It was determined by King Edward that again there should be a mighty invasion of Scotland. Summonses and commissions of array went forth; and to impress all fighting men with the seriousness of the emergency, there was a proclamation, as there had been before, against the holding of idle military pageants, tournaments, jousts, and the like, until this affair with Scotland should be finished.² Broken down as he was, he must be carried with his army northwards; but before that army began its march there was a grand state pageant and inauguration. The king's eldest son, the Prince of Wales, a young man in his twenty-second year, was to be knighted, and with him a crowd of the sons of the English barons. He kept his vigil in Westminster Abbey, was then duly dubbed, and being himself within the sacred circle of knighthood, he admitted his companions, some three hundred, who took their vigils in the Temple Church. All London was roused into excitement by the splendour and solemnity of the ceremonies, which devoted the flower of the young chivalry of England to the one engrossing object of the subjugation of Scotland. King Edward, by his own personal part in them, threw a terrible earnestness over these ceremonials. He made, by every sanction he could call up, a vow to devote his remaining days to vengeance for the sacrilegious murder, and the extermination of the rebel king and his followers; and conscious, as it would seem, that the sternest will could not strengthen his tottering frame for a long tough contest, he forecast a plan by which

¹ *Fœdera* (Record edition), i. 987.

² Palgrave, *Parliamentary Writs*, i. 377.

his indomitable spirit might leave an influence after it had fled from the tenement of clay. He exacted a solemn vow that on his death his body should be carried with his army, and never buried until Scotland was subdued.¹

His preparations for war were not hampered by the slowness of his personal movements. An army reached Scotland early in 1306, under Pembroke the new governor, Clifford, and Percy, with what result we shall presently see. The old king followed slowly, having to take long rest at various points; he set out in the summer of 1306, but it was March of the following year ere he reached Carlisle.²

He had the satisfaction yet before he died to reap a small but rich harvest of vengeance. Nigel Bruce, a brother of the king and a youth celebrated for his comeliness, was taken, and afterwards hanged and beheaded. The same doom befell the husband of Bruce's sister, Christopher Seton, and his brother, Alexander Seton. The Earl of Athole, Simon Fraser, and Herbert de Norham, were put to death at London after the horrible form of the execution of traitors; and the chronicles say that Athole, being in some slight degree akin to the royal blood of England, had the distinction that the gibbet he was hanged on was thirty feet higher than the others. There were many inferior victims.

These are the acts that break the spirit of servile races, but only nerve those of higher mettle to defiance. The selection of the victims, too, was of infinite value to the struggling people of Scotland. Hitherto no noble and Norman blood had been drawn by the hangman. When these strangers first acquired lands in Scotland, and afterwards, while they belonged to the English court, they got the name of Frenchmen, and were treated as hostile aliens. But they were of the same race as the people of the land, and gradually we find them changing from Frenchmen

¹ Of the various accounts of these events in the chronicles, the most spirited is that given towards the end of Mathew of Westminster.

² See the stages of his journey, traced by Lord Hailes through the dates of the writs issued by him.

to Scotsmen with the national feelings of their country : and now this community of feeling became cemented by common sufferings and a common enmity.

Among the illustrious captives were two great prelates—Lamberton of St Andrews, and Wishart of Glasgow. None had been so versatile and so indefatigable in stirring up the people, and no laymen had broken so many oaths of allegiance to Edward, yet he was content to imprison them, afraid to dip his hands in clerical blood.

Meanwhile the old king dreamed that new health was stirring within him. He hung up his litter as a votive offering in the cathedral of Carlisle, and mounted his horse to ride towards the Solway. He reached Burgh-on-the-Sands, within sight of Scotland, and there died on the 7th of July 1307. With his last breath he provided for the method in which the great vow he had exacted was to be carried out. The flesh was to be stripped from the bones, and these were to be borne at the head of the army. The thing was not done ; dying wishes that breathe of love and duty are deemed sacred, but those that carry the spirit of hatred and vengeance survivors are not prompt to execute. He was buried decorously in the Chapel of King Edward, beside the wife of his heart, and that palladium of Scotland which was to be the one memorial of his conquests.

CHAPTER XXIII.

WAR OF INDEPENDENCE TO BANNOCKBURN.

DIFFICULTIES OF THE NEW KING—POLITICAL POSITION OF THE HIGHLANDS—BRUCE'S WANDERINGS AND ADVENTURES—ACTS OF PERSONAL PROWESS—POPULARITY—FIRST GERMS OF SUCCESS—CONTEST WITH THE COMYNS—ASSISTANCE OF THE CLERGY—THEIR INFLUENCE, SPIRITUAL AND FEUDAL—THE OSCILLATIONS OF ALLEGIANCE—SPECIMEN OF A SHIFTING BISHOP—SIEGE OF STIRLING BY BRUCE—ENGLISH NATIONAL PRIDE ROUSED—EAGERNESS TO DO BATTLE IN SCOTLAND—COLLECTION OF A GREAT ARMY—PECULIAR CONDITIONS OF THE COMING CONTEST AS FIXED BY THE ENGAGEMENT TO SURRENDER STIRLING—THE POSITION OF THE SCOTS ARMY—ITS PERSONAL COMPOSITION—HOW BOTH ADAPTED TO THE OCCASION—THE APPROACH OF THE ENGLISH HOSTS—BRUCE'S PERSONAL PASSAGE OF ARMS—RANDOLPH'S SKIRMISH—BATTLE OF BANNOCKBURN.

Soon after the inauguration at Scone, severe trials came on the new king and his followers. The English army was far too strong for an unorganised rising to make head against it. Pembroke, the Regent, was strongly posted at Perth. Bruce brought his little band too near this enemy, and was attacked at Methven on the 19th of June. It was a surprise and a scattering rather than a battle, but it was a heavy blow to the infant cause; it was in this affair that the greater portion of the captives put to death by the English were taken.

Soon afterwards the party suffered a check from a totally different quarter, which showed that, besides the English claims, there was another formidable difficulty in the way of restoring Scotland to an independent sovereignty.

We have repeatedly been reminded, in the course of events, of the Celtic tribes of the west—people who could not easily conform to the sovereignty of the King of Scots, though they were in reality the descendants of those who first brought the name of Scots into the country. It did not make them more docile that the invasions and migrations of the Scandinavians had brought men of the northern Teutonic blood into the original race. The royal prerogative, and the Norman feudal tenure of land, extended over their districts fleetingly, and sometimes nominally only. By the technicalities of the chapel of chancery the king's writs were current there, just as in terms of a proclamation of King Edward, those of the King of England were supposed to be current in Scotland when Wallace governed or Bruce reigned. There was enmity between these Celtic tribes and the Lowlanders of Scotland of a different kind from the enmity that had now grown between England and Scotland. It partook of the antipathy of race; and though it did not come out so powerfully in great contests, it never died. It was the natural condition of these people to be under absolute chiefs and leaders, who set up a mimic royalty. When the local rulers, whether Celts or strangers, were liable to be ruled or scourged through the power of Norway on the sea, there was a certain compactness of rule over the whole vast district. We have seen that there were three rival centres of command,—Dublin, Northumberland, and Orkney; but all stood in awe of the ruler of Norway. When this influence was finally broken by the battle of Largs, another had not as yet replaced it, though the Scotland where now the Lowland population prevailed was naturally in the end to become that influence. Meanwhile, the contest for independence paralysed the power of control, and the combination that seemed long ago to be working itself into a great sea empire was falling to pieces. Even in the Highlands and Isles there was generally more than one king or chief. Had all been under one leader when King Edward began his encroachments, there is no doubt that he would have had thorough help from that leader. As it was, he entered into alliance

with three of them, who, as they were in some measure rivals, did not always co-operate.¹

Bruce and his band had, for some cause unexplained, to pass through Athole, and penetrate the Highlands until he reached the edge of the country of one of these chiefs, John of Lorn, who, naturally no friend of Bruce, happened to be a relation of the slaughtered Comyn. There, at Dalry, near Tyndrum, between Loch Awe and Loch Tay, the little party was attacked by a swarm of Highlanders. The contest was one of the kind which gave opportunity to the mounted knights in full mail to show how unassailable they were. To fight face to face with the half-naked horde on their own rough ground was out of the question, and Bruce gained signal honour by the way in which he moved his mailed phalanx away, rendering pursuit deadly to those who came nearest.

Two other affairs come out with some distinctness in the confused history following on the coronation. Bruce wandered into the far west, Arran and Kintyre, seeking, as it would appear, to have a good opportunity for seizing his own Castle of Turnberry, on the Ayrshire coast opposite to Arran. He found it so well garrisoned by Percy that attack was useless. Fortune favoured his adventure, however, in another shape; for in a night attack on Percy's army, close at hand, he caused havoc and panic, and, what was of some moment, gained a valuable booty. He was here among his own people, from whom he would of course recruit his force to the utmost, and he kept Percy blockaded in the castle until a fresh English force made it necessary to move away. The other affair was at no great distance from Turnberry, at Loudon Hill, in the eastern part of Ayrshire. The position was a strong one—a conical trap rock rising out of a sloping base. Here Bruce met an attack by an English force under Pembroke. What we can gather from the romantic traditions of the affair is little more than this, that Bruce intrenched himself strongly, and, following up the tactic of Wallace, de-

¹ "Litera Alexandri de Argathil; litera Alexandri de Insulis; litera Donenaldi de Insulis."—*Fœdera* (Record edition), i. 761.

fended a strong position by spearmen on foot against the assault of heavy armed cavalry, tempted to make a rash attack by the disparity of their enemy's numbers, and the superstitious reliance on the invincibility of such troops as their own. However it came to pass, the English were driven off so effectually that the affair is recorded as a defeat in their contemporary chronicles, which tell that their leader retreated to Ayr, and thence returned to England.¹

It is extremely difficult to give distinctness and chronological sequence to the events in Scotland from 1306 to 1310: the conditions are indeed antagonistic to distinctness. We have a people restless and feverishly excited to efforts for their liberty when opportunity should come, but not yet embodied in open war against their invaders, and therefore doing nothing distinct enough to hold a place in history—in fact, if after-events did not attest the determined spirit of opposition then smouldering among the people, the natural inference would be, that they were now thoroughly broken in. The other prominent feature in the historical conditions, was the new-made king, as yet so insecurely seated that he must be treated as a competitor only for a throne. He was not, however, in this capacity holding himself apart in serene dignity until his partisans should come to tell him that the cause of legitimacy is at length triumphant, and a devoted people are impatient for their sovereign. On the contrary, he was doing his own work with labour, peril, and suffering. At one time he has to pass through dangerous ways to look after his interest at some distant spot—again he is pursued, and has to flee for his life and hide himself. Aware of the impossibility of making head for some time against the army of occupation, he had sometimes more to do in keeping his followers quiet and hidden than in embodying them under his command. The history of such a way of life is liable to indistinctness and obscurity; and yet we possess a clear and picturesque narrative of the whole. It is difficult to believe it all, and yet it is so natural and congenial

¹ See Hemingford, 236.

to the conditions of such a history, that it is useless to cut away any part of it as absolutely incredible. It is a fact, at all events, that the story was believed in Scotland at the time, and it is necessary to a true history to afford some touches of its characteristics.

We soon become acquainted with the nature, physical and moral, of the adventurer. He is a tall strong man, of comely, attractive, and commanding countenance. When clad in steel and mounted on his war-horse he is a thorough paladin, dealing with sword or mace the doughtiest blows going in his day. But when he has to cast aside his panoply he can take to the ways of the half-naked mountaineer—can make long journeys on foot, scramble over rugged ground, and endure cold and hunger. He is steady and sanguine of temperament; his good spirits and good-humour never fail, and in the midst of misery and peril he can keep up the spirits of his followers by chivalrous stories and pleasant banter. To women he is ever courteous, and he is kindly and considerate to all less able to bear fatigue and adversity than himself. There is throughout, indeed, a remarkable parallel between Robert Bruce and Henry the Great of France, with the difference in Bruce's favour of his living in an age which did not applaud the immoralities of gallantry.

There is a very fair instance of his personal prowess in the retreat from the swarm of Highlanders near Tyndrum. Two brothers had sworn to take his life; and bringing a comrade to aid them, they watched until the retreating party had to pass between a lake and its abrupt bank. Bruce was the last, and the passage was so narrow that it was impossible for him to turn his horse. Then the three leaped on him like wild-cats. One seized the bridle and hung by the horse's head, and was instantly cut down. Another got his hands between the stirrup and the boot, and tried, by heaving up the rider's foot, to unhorse him. This was well known as a trick by which ill-armed assailants, reckless of life among themselves, might put mounted knights to imminent peril, for if once overbalanced, the weight of the mail made recovery of the seat difficult. Bruce stood straight up in his stirrups and dragged the

mountaineer after him, while the third alighted behind, and, grasping him tightly, tried to help in the unhorsing. The hero, twisting himself round, cleft his head, and then, having no more to deal with, cut down the man dragged at the stirrup.¹

This was a natural enough shape for a contest between a strong mounted man-at-arms with three fierce savages. Other achievements of the Bruce are not quite so credible. In Galloway he finds himself with but two attendants beset by a party of the wild natives, some two hundred in number. - He takes his station in a pass or cleft so narrow that only one man on horseback can pass through it at a time. Up comes a mounted Galwegian ; he and his horse are at once slain by the king. Another and another comes up, to share the same fate, and the cleft is so choked up with dead men and horses that the others cannot approach. The noise of the contest is heard by Bruce's party, who come up to the rescue, and the Galwegians retreat. Still another incident. When hard pressed by pursuers Bruce and his band would scatter, each taking his own way, and leaving the enemy perplexed as to the direction in which they were to seek the great prize. Once finding himself in the presence of a double army of his enemies, commanded by Pembroke and John of Lorn, this tactic was tried. The Highlanders had, however, got hold of a bloodhound once belonging to Bruce himself, and set him on the trail. He heard the baying and knew the danger. Coming to a stream, he waded some way up, then mounted into a tree, caught suspended branches, and swung himself a good way on from tree to tree before he alighted on the ground—so the hound would find the place where his feet had entered the stream,

¹ Barbour says of the two brothers:—

“Thar surnam was Makyndrosser,
That is all sa mekill to say her,
As the Durwarth sonn is perfay.”

Shaw in his Gaelic Dictionary has “dorsair” for doorkeeper. It has been suggested that these were of the progeny or clan of Durward, the claimant (pp. 25 and 126), note to “Early English Text” edition of ‘The Bruce.’ It was in this encounter that “the brooch of Lorn” was seized.

but would nowhere find trace of his stepping out upon the bank.

There were other adventures of a less stirring kind, but scarcely less likely to endear the national hero to his people. Early in their wanderings the party were joined by Bruce's wife—the queen, as she was of course termed—and the wives of some of his followers. Until they were housed in the Castle of Kildrummy these ladies held to the party in their wanderings, and the chivalrous spirit of Bruce and his knightly followers was shown in the tender care taken of them in extremity of difficulty. Bruce was early joined by young Douglas, afterwards known as the Good Lord James—the son of Wallace's friend. The youth appears to have been a great acquisition in many ways. The party had to support themselves by hunting and fishing, and Douglas showed himself an adept in both kinds of sport.

He had his own share, too, in the achievements of the party. One of these became renowned by the name of the "Douglas Larder." His paternal estates had been gifted by King Edward to Clifford. The young Douglas set off one day in disguise, by way of taking a sentimental ramble over the scenes of his infancy, but ready at the same time to deal with such adventures as might befall him. He found old followers of the house there, and gradually gathered such a party as might adventure on some great enterprise on known ground. The English garrison went in a body to church, leaving the castle empty of all save the domestics who were to prepare a meal for them—a piece of carelessness almost incredible. Douglas and his followers fell upon them, thus utterly at unawares, and made an easy conquest. The victors then ate the dinner prepared for their victims, and when they had finished, gathered all the provender in the establishment together on a pile of wood, somewhat after the fashion of an old Roman funeral pyre. The captives were slain, and, with those killed on the onset, were thrown on the heap, while the wine-skins were cut open, so that the liquor ran out along with their blood; then the whole was set on fire. Such were the acts of vengeance which

hatred of their invaders had taught the people to tell and hear with exultation. The story may serve to close the brief string of incidents, selected rather to show the nature of the things which the people delighted to hear concerning their favourite hero and his companions, than as events which can be vouched for as absolutely true.¹

It must be held beyond all doubt, that the turning-point in the recovery of the independence of Scotland was the death of King Edward in 1307. The work to be done required such a leader. Communities may grow strong or weak—some may become aggressive and dominant, while others sink into servility or decay; these phenomena are

¹ The book, half epic half chronicle, which is the great storehouse of these adventures, is known to readers of old English literature as 'The Bruis,' by John Barbour, Archdeacon of Aberdeen. Scotland is fortunate in the possession of such a memorial. The national hero of a country is seldom thus celebrated until centuries have passed and the manners have utterly changed. The chronicle or romance, whatever it may be called, is then an echo of the manners of its own day, not of the age it professes to commemorate. The whole school of Arthurian romance is an eminent instance of this. Barbour, however, was at his studies at Oxford within thirty years after Bruce's death. The Archdeacon was not a man of bold or luxuriant imagination, whence one is apt to give the more faith to his narrative. It has been accepted pretty freely into history, even by the dry and doubting Lord Hailes. Yet Barbour sets out with a statement showing a determination to subordinate facts to his notion of the artistic structure of a story, calculated somewhat to appal the searcher after truth. He makes his hero the same Bruce who was competitor for the crown in 1291, thus identifying the hero of the tale with his own grandfather, and in fact finding materials for this hero in three generations. This enabled him to tell how the Bruce scornfully refused to hold Scotland as a fief of England, so that Baliol, who was so base as to accept the crown on such terms, was chosen in his stead.

There are three standard editions of 'The Bruce,' one by John Pinkerton, well known to every student of our early history; the second by Dr Jamieson, the author of the Scots Dictionary; the third by Professor Innes for the Spalding Club. The popular editions, with more or less variation from the stricter texts, are innumerable. The book has recently been taken up by the critical inquirers into the fountains of the English language and literature. A portion of 'The Bruce; or, The Book of the Most Excellent Prince Robert de Broys, King of Scots,' is edited for the Early English Text Society by the Rev. Walter W. Skeat.

the result of silent, gradual processes, like growth and decay in nature. To conquer a country at the sword's point, however, requires the special man, with a head and a will for the occasion. When he disappears, his incomplete work is lost. His people and barons were not always willing coadjutors in Edward's design; he had first often the hard task of goading them to take arms before he had the other of assailing his enemy, and he frequently met with the bitterest disappointments when discontentments for broken promises about the charters lost him the favourable moment. No longer urged by a fiery master, the English barons rested. The young king, Edward II., had a fine army brought for him to the border, and he crossed it, marching as far as Cumnock, in Ayrshire, and then returning, probably for want of provisions. There was another equally meaningless incursion in 1310, when the English army reached Renfrewshire and returned. The lieutenants or governors of Scotland were frequently changed, but none of the appointments had significance enough to demand comment. Bruce was fast making head. The chief stand made against him was by Comyn, Earl of Buchan, the husband of the lady who had assisted at his coronation. His domain was the great level tract reaching from Aberdeenshire north-eastwards along the coast to the opening of the Moray Firth. Whether or not he was successful in getting together a following from his own territories, he and Mowbray, one of the English commanders, had a considerable force between them. Bruce was westward in the higher ground, where his old feudal strength lay. Being so near each other they could not but fight, and they met near Inverury, on the Don. It was a contest under conditions soon to disappear from history—a Norman baron with a Scots title using his territorial power in the cause of England. Bruce was on a sick-bed at the time; but, like the war-horse, the sound of battle roused him, and he demanded to be mounted. His force scattered the enemy, pursuing them to a great distance, and Bruce said that the excitement of victory restored his health. The victorious party swept the lands of the Comyn,

and their vengeance was remembered in local tradition as the "heirship" or "herrying" of Buchan.¹

There remains a brief casual testimony to the extent of the ruin inflicted, and the hero's compunction for at least one class of the sufferers. The old well-endowed Columbite monastery of Deer suffered with the other landholders in the obnoxious district. The community naturally took part with the lord of the soil, and in 1296 Bruce the abbot swore fealty to King Edward at Berwick. Within a year after the victory of Bannockburn, Bruce granted to the monastery a charter professing to render compensation for the injuries inflicted on the community during the recent wars, confirming to the community in free gift all the churches, lands, and possessions that the lords of Buchan and other magnates had professed to confer on them.²

The English were driven out of the strong places one by one—sometimes by the people of the district. We hear of the fall of Edinburgh, Roxburgh, Linlithgow, Perth, Dundee, Rutherglen, and Dumfries. In Aberdeen there was a fortress with an English garrison, yet Bruce and his followers were received in their hour of need by the citizens, and when his prospects brightened the English garrison was driven out. The city long enjoyed a tradition telling how the English garrison were put to death, every one of them—for to have done something towards the extirpation of the English invaders was a source of legitimate pride in any part of Scotland.³ The fortresses thus taken seem to have usually been of the

1 "Gert his men burn all Bouchane
Fra end till end, and sparit nane;
And heryit them on sic maner,
(That efter that, neir fifty yheir,
Men menyit the heirschip of Bouchane."

—The Bruce, book ix.

Barbour's abode was close to the district of Buchan.

² Third Report of Historical MSS. Comm., Ap.

³ Hector Boece said the bones of the English were to be seen in his day with inscriptions narrating the manner of their death. As also that the Church made the citizens ever after do penance by retiring to the chapel of the castle every Sunday and praying for the English slain. See in the 'Book of Bonaccord,' p. 32, an examination bringing home the whole story to Hector Boece's inventive genius.

clumsy obsolete class, and Bruce was in the practice of destroying them. As a Norman baron accustomed to the new school of fortification, he would naturally have little respect for them. The Scots army, too, was seldom large enough to be wasted on secondary garrisons, and an extensive process of fortresses was inconsistent with the policy of the defensive system begun by Wallace and ever maintained, of abandoning invaded districts and leaving bare fields to the enemy.

In the beginning of the year 1309, Scotland was so far consolidated as to be getting into a place in European diplomacy. The King of France advised his son-in-law, Edward II., to agree to a *souffrance* or truce with the Scots. It is difficult to believe that such a recommendation was made spontaneously. We must suppose that the Scots pressed on the Court of King Philip the policy of reminding England that France had not forgotten the existence of Scotland as a means of checking her great enemy. The truce was agreed to. In the adjustment of the affair a little incidental touch of the French diplomatic practice of that day came out. King Edward wrote to the King of France, complaining that his emissary had letters openly addressed to Robert de Bruce, Earl of Carrick, while he had others kept secret addressed to him as King of Scotland.¹

While the negotiations with France went on, countenance still more important was given to the new order of things at home. The clergy in council set forth their adherence to King Robert, with the reasons for it. They referred to the contest of his grandfather for the throne, maintaining that he was the true heir. In mournful strain they lamented the miseries suffered by the country through the ambition and cruelty of its enemies; but He under whom kings reign had restored the land through the success and prudence of King Robert, whom the people received as the true heir of the crown in right of his

¹ "Ad Regem Franciæ, de suspicione nuncii sui scribentis literas Roberto de Brus, alias publice ut Comiti de Carric, alias secrete ut Regi Scotiæ, 2d Aug."—*Fœdera* (Record edition), ii. 79.

grandfather, and thereupon they proffered to him their homage and allegiance. Among the adherents to this manifesto were Lamberton, Bishop of St Andrews, and the Bishops of Glasgow, Dunkeld, Aberdeen, Moray, Dunblane, Ross, Caithness, Brechin, the Isles, and Galloway.¹

This was an extremely important matter, for it meant, of course, that the Church would do its best to protect him from all ecclesiastical risk arising from the death of Comyn. This powerful backing was no doubt due to the restless Lamberton. He had been for some time a prisoner in England, where he expressed much contrition for the past, and loyalty to the cause of English ascendancy. On his earnest representation that he could better serve the cause of Edward in Scotland than where he was, he was released; and this was the way in which he fulfilled his obligation.

There was, indeed, ere the revolution had come this length, a great deal of oath-breaking and counter-swearing. Part of it was voluntary, as when those whose homage had been exacted by Edward found themselves free. A considerable portion of it was no doubt forced on unwilling subjects by the new Government; for the Norman barons who held lands in Scotland had not all turned Scotsmen—the sympathies of many of them were with the English Court.²

Of course the breaking of an oath has an ugly sound, and is not to be lightly spoken of; yet, like all other offences, it has to be measured by the special conditions and prevalent doctrines of the time. We have seen the practice of oaths of allegiance coming into universal use with the feudal system: it was, along with the marriage

¹ Act Parl. Rob. I., first vol. of Scots Acts, 100.

² Sir Francis Palgrave gives an instance of homage coercively exacted by Bruce, which he seems to think more unjust and tyrannical than anything he found King Edward doing. It is in a memorial to King Edward and his council by Malice, Earl of Strathearn, which "is extremely interesting, as showing the force and duress exercised by the Bruce against or upon all who dared to adhere to their own allegiance."—Documents, clix. 319.

law and other institutions, one of the arrangements by which the Church sought to hold over the laity, and in its primary object of cultivating truthfulness and fidelity was beyond question beneficial. The practice, however, was heavily influenced by the materialism prevalent in the religion of the day. In exacting an effective oath, the great point was to attach to it some special sanction which would make the swearer afraid to break it. An oath was taken in the name of a certain saint, and it would be much invigorated if the hand were laid on a bone or some other relic of the saint. From that moment the person sworn, if he were a religious-minded man, felt that the saint would be his enemy if he broke his oath. One can see that an oath judiciously attached to some minor saint was often more desirable than a higher religious sanction; the minor saint had not much power, perhaps, but that might render him all the more vigilant in looking to the conduct of his devotee. In some instances we shall find a double selection: some minor saint, popular and powerful in the district, invoked along with another illustrious throughout the Church. In short, the whole policy of seeking influence and authority among the saints resembled that of common worldly self-seekers working for their objects through the help of influential friends or patrons. We must hold all these things in view in estimating the fundamental character of oaths and the sanctions invoked in them. But the religious oath, such as it was, held a strong influence in the feudal apparatus of the day.

Thus, after centuries, the Church had thoroughly established the influence of this kind of obligation. At the same time, however, the practice had taken such a tendency, that what the Church laid on the Church could also take off. The pious Edward I. himself, while exhausting his eloquence on the sacrilegious perfidy of the Scots, was pleading at the Court of Rome for dispensation from the oath he had taken to confirm the charters. It is another strange feature in the affair that churchmen were the readiest to act in the teeth of their oaths, because they knew better than laymen how to get the burden of the offence removed; the affair was in their own way of busi-

ness—they were surer of what they were about. In the great contest for independence, the oaths broken by ecclesiastics are about a hundred per cent more in proportion than those broken by laymen.¹

Another unpleasant feature disturbs the harmonious picture of an oppressed people driving forth the invader

¹ Sir Francis Palgrave becomes unintentionally picturesque in the rubrics or marginal indications given by him, when he brings forward the record of the retractions of the two eminent prelates Lamberton and Wishart:—

“The king’s enemies being defeated, Lamberton changes sides; takes the oath of fealty again to the king; receives back his temporalities, &c.

“Confidence reposed by Edward I. in Bishop Lamberton. He is appointed chief of the royal lieutenants or governors.

“Lamberton changes sides again, and steals off to Bruce.

“Lamberton treacherously places the son and heir of the Stewart (who had been given as a hostage by his father) in the power of the Bruce.

“The king’s power increasing, Lamberton changes sides again; surrenders himself to Sir Aymur de Valence, and takes another oath of fealty to the king; after which he changes sides again, and sends forces to the assistance of Bruce.

“The Pope requested to punish such acts of perjury and treason. ”

“Bishop Wisheart takes the oath of fealty for the *first* time.

“And breaks his *first* oath, abetting Baliol in all his treasons.

“Bishop Wisheart, upon Baliol’s submission, takes the oath of fealty for the *second* time.

“Bishop Wisheart takes two more oaths, and promises fealty for the *third* time.

“Bishop Wisheart takes advantage of the king’s absence, breaks his *second* and *third* oaths, and instigates the rising of Bruce and Wallace.

“Bruce’s affairs appearing to decline, Bishop Wisheart changes sides again; submits, and becomes one of the sureties for Bruce.

“Bishop Wisheart changes sides again, and goes over to the Bruce.

“Bishop Wisheart appears to change sides again, and surrenders himself to Edward.

“Bishop Wisheart charged with having made such his surrender out of treachery, and that he might betray Roxburgh Castle to the enemy.

“Bishop Wisheart treated most courteously by Edward—enlarged upon his parole. He takes the oath of fealty for the *fourth* time.

“Bishop Wisheart breaks his *fourth* oath, changes sides, and sends forces to act against the English.

“Edward having defeated his enemies, the bishop changes sides

that they might regain their liberties and enjoy them in peace. Peace was not yet among the objects of the Scots. King Edward complained that they broke the truces he had conceded by desire of the King of France. They made more than one raid through unhappy Cumberland, in one of them reaching Durham, where they did much mischief. The English chroniclers charge the marauders with all the horrors which it had been for centuries the practice to attribute to a border invasion by the Scots. The son of the man who had twice overrun Scotland was assailed by the piteous wails of his own English subjects—victims from the masterful Scots invaders. Beyond the suffering districts, the calamity was made known in the disagreeable shape of the exaction of a forced loan to protect England against Robert Bruce and the Scots.¹ If the voice of prudence could be heard in the tumult of such wild retaliation, it would tell that the Scots could take no surer way of proclaiming to England that Scotland should be reconquered.

A crisis came at last which roused the Government of England to a great effort. After the fortresses had fallen one by one, Stirling Castle still held out. It was besieged by Edward Bruce before the end of the year 1313. Mowbray, the governor, stipulated that he would surrender if not relieved before the Feast of St John the Baptist in the following year, or the 24th of June. The taking of this fortress was an achievement of which King Edward was prouder than of anything else he had done in the invasion of Scotland. He made it of far more moment than even his victory

again ; takes the oath of fealty for the *fifth* time, and acknowledges that he holds his temporalities of the king.

“ The bishop takes the oath of fealty for the *sixth* time, and with great solemnity.

“ After which he changes sides again, and assists Bruce *totis viribus* in his assumption of the royal authority.

“ These matters notorious to all the world.

“ The bishop refuses to return to his allegiance.

“ Preaches to the people that fighting against the King of England is as good a work as a crusade.”

¹ The assessment of this loan on the clergy is given at length in Palgrave's Parliamentary Writs, ii. 105.

over Wallace at Falkirk. Its possession was a significant symbol that there was still a hold on Scotland, for it commanded the gate, as it were, by which the two great divisions of the country could hold intercourse with each other. That the crowning acquisition of their mighty king should thus be allowed to pass away, and stamp emphatically the utter loss of the great conquest he had made for the English crown, was a consummation too humiliating for the chivalry of England to endure without an effort. Stirling Castle must be relieved before St John's Day, and the relieving of Stirling Castle meant a thorough invasion and resubjection of Scotland. The great barons, who had been at discord with the king about his favourite, Pierce Gaveston, and other things, now set to work in the great cause, and the lazy king was thus the nominal director of a military drain upon the country more thorough than his determined and untiring father had ever accomplished. Besides the feudal force of England, dragged out by all forms of summons and array, the king demanded the attendance of his Welsh subjects. After the example of his father, he issued personal requisitions to the kings or chiefs of "The Irishry."¹ Against the kind of enemy they were to meet, neither of these two elements could be of much benefit to the army, and they were probably rather a hindrance than a help.

Perhaps there never was a battle of which the conditions as to both armies were so distinctly preadjusted and so inevitable, as that which was to come. The time and the place were fixed by an obdurate necessity. The English were to relieve Stirling Castle; the Scots must prevent them. If they attempted to meet the invaders at any distance from this point, they ran two risks. If the enemy were not met and fought, these might outflank the Scots and reach the castle. If the Scots did meet and fight, it might be on bad ground, and that would be fatal. The

¹ They are addressed by such titles as—Eth Offlyn dux Hibernicorum de Turtery; Doneval O'Neil dux Hibernicorum de Tyrowyn; Lauercath Mac Wyr dux Hibernicorum de Lougherin; Gillys O'Railly dux Hibernicorum de Bresfeny; Felyn O'Honoghur dux Hibernicorum de Connoch, &c.—*Fœdera* (Record edition), ii. 245.

battle, therefore, must be under the walls of the castle. Certain writs issued in England so early as the 27th of May set forth, for the purpose of exciting the warlike spirit of the country, that the Scots intend to assemble in great numbers on certain strongholds and morasses inaccessible to cavalry, in order that they may prevent the Castle of Stirling from being relieved before the Feast of the Nativity of St John; and if the relief be not effected the Constable must surrender the castle, according to conditions between him and the enemy. That any force Bruce could gather should meet so mighty an army as England was collecting, otherwise than on strong selected ground, was out of the question. It was the fortune of the Scots that the ground provided for them was nearly as good—perhaps quite as good—as any they could have selected; and there was this further advantage, that however strongly they were posted, the English must attack them there, and could not evade the battle.

Stirling Castle stands on a trap rock rising out of a basin, and one does not pass far from it before beginning to ascend. To the south, and partly to the east and west, the ascent is on the Campsie Fells, a chain of hills neither very lofty nor very precipitous, but affording ground capable of being made very defensible. Here the Scots army were to meet the enemy; indeed nowhere else could they do so; and Bruce occupied himself in fortifying the position. To the right it was well protected by the brawling rivulet the Bannock Burn, which gave a name to the contest. Had they only to choose the strongest post and meet an attack, it had been a simple affair; but there was a tract of flat ground through which an army might pass to the gate of Stirling Castle, and that must be seen to. This tract was therefore honeycombed with pits, and the pits were covered with branches strewn with the common growth of the neighbourhood. This was done, not with the childish expectation of catching the English troops in a trap, but to destroy the ground for cavalry purposes.¹

¹ Between the slope of the fells and the flat carse the ground undulates. The undulations, in general, have no direction like the fells,

On the 23d of June the two armies were visible to each other. If the Scots had, as it was said, between thirty and forty thousand men, it was a great force for the country at that time to furnish. Looking at the urgency of the measures taken to draw out the feudal array of England, to the presence of the Welsh and Irish, and to a large body of Gascons and other foreigners, it is easy to be believed that the army carried into Scotland might be, as it was said to be, a hundred thousand in all. The efficient force, however, was in the mounted men, and these were supposed to be about equal in number to the whole Scots army. This great host was apparelled with unusual magnificence. Had it been assembled for some object of courtly display, it would have been a memorable exhibition of feudal splendour. The countless banners of all colours and devices, and the burnished steel coats of the many thousand horsemen glittering in the summer sun, left impressions of awe and admiration which passed on from generation to generation.

There are efforts, not always successful, to describe the exact division and disposal of the Scots army. It seems more important to keep in view the general tactic on which its leader was prepared with confidence to meet so unequal

but are isolated gravel hills. Of these, however, one portion goes in a transverse direction from the declivity of the fells towards the carse in such manner that one can easily suppose it concealing from those in the upper ground a party moving along the level, close under its shelter, and can also understand how, on this movement being detected, troops could be carried round the shoulder of the transverse mound, so as to come by surprise on those attempting the relief. It is also, from the nature of the ground, easily to be understood how a leader placed where all the field was visible—as, for instance, at the spot now called the “Bore Stone”—could see any such attempt, while a leader on duty further down could not. This refers to the ground on which occurred an affair which has to be told as preliminary to the great battle, the defence of the passage by Randolph against Clifford. How far the stream of the Bannock protected a flank must have depended on the preceding weather. In places its banks are steep. It has generally now little volume of water, being diverted for manufacturing purposes. Among the dirty pools in its bed in the filthy manufacturing village, the multitude of large boulders brought down by it show that it has been at times a powerful stream.

a force. It was the same that Wallace had practically taught, and it had just recently helped the Flemings to their victory of Courtrai. Its leading feature was the receiving charges of cavalry by clumps—square or circular—of spearmen; and simple as it was, it was revolutionising the military creed of Europe by sapping the universal faith in the invincibility of mounted men-at-arms by any other kind of troops. Bruce had a small body of mounted men, but he was not to waste them in any attempt to cope with the English cavalry; they were reserved for any special service or emergency.

For the hopes of Scotland the great point was that the compact clumps of spearmen should be attacked upon their own ground. But there was a serious danger to be met beforehand. Holding the approaches to the castle from the east was far more difficult than holding the ground of the main army. If any body, however small, of the English army could force this passage, and could reach the castle gate or the sloping parts of the rock, the primary object of the invasion would be accomplished. The castle would be relieved, and the English army, no longer bound to attack the Scots on their own strong ground, could go where it pleased; and in fact this movement, so dangerous to the Scots, had been wellnigh accomplished. It was the duty of King Robert's nephew, Randolph, with a party told off for the purpose, to guard the passage. The king observed that a party of eight hundred horse under Clifford were making a circuit, evidently with the purpose of reaching the passage, and that no preparations were made to receive them. He pointed this out to Randolph with a severe rebuke for his negligence. Burning to redeem his honour, he ran on with a body of spearmen, who planted themselves in the way of the English horsemen, forming a clump with spears pointing forth all over it like the prickles of a hedgehog. The horse attacked them furiously in front without breaking them, then wheeled round and round them, vainly assailing them from all points. From a distance the little party seemed doomed, and Douglas hastened with a following to their rescue, but as he approached the aspect was more cheering. It was not

so certain that they were to be beaten, and chivalry forbade him to give unnecessary aid. The assailants had suffered heavy loss. Sir William d'Eyncourt, an illustrious English knight, was counted among the dead; and the horsemen, breaking up into confusion, had to retreat to the main army. This was followed by a short and memorable passage at arms. King Robert was riding along the front of his line on a small horse or hackney, conspicuous by a little gold circlet round his head to mark his rank. An English knight, Henry de Bohun, rode forward into the space between the two armies, after the fashion of a challenger to one of the single combats which at that time gave liveliness to the intervals between the serious business of battle. Bruce accepted the challenge. He warded off his enemy's charge, and, wheeling round, cleft his skull with a small battle-axe, the handle of which went to pieces.

His followers blamed him for so rashly risking the safety of the army in his own, and he had nothing to say in his defence. Yet the act was not so flagrant as it might be if the like were done in our days. One so thoroughly trained to personal warfare as Bruce must have known the extent of his own resources, and might be able to calculate on the next to certainty of killing his man and on the inspiring influence of such an act.¹

We can easily believe what is said of this incident shooting a feeling of despondency and apprehension through the English host. It was nothing in itself, but it was an evil portent.

¹ Some histories make him meet the censure of his followers by the flippant remark that he regretted breaking his good battle-axe. This is not in character; and Barbour, who is referred to as authority for the saying, had far too good a taste to put such a decoration on his narrative. He says the king made no answer, but seemed like one mourning over the fragments in his hands:—

“The king them answer made he na,
But menit his hand ax shaft sa
Was with the strak broken in twa.”

The conduct of a man awakened to the reflection that, successful as it was, his act had been unworthy of his responsibilities.

It was at daybreak on the 24th of June that the English army advanced to the charge. There was a preparatory movement very perilous to the Scots. The English army contained a large body of archers, whose motions on foot and in thin lines were not impeded by the difficulties of the ground. A detachment of these wheeled round and took up a position where they could rake the compact clumps of Scots spearmen. The bowmen were a force becoming every year more formidable. It was destined to be the strongest arm of the English army, and on many memorable occasions it inflicted heavy punishment on the Scots. It is difficult to realise the power and precision with which the masters of the art could send a cloth-yard shaft. They could pick out one by one the chinks and joints in the finest suit of Milan mail. To spearmen on foot it was hopeless to contend with them—only cavalry could drive them off. Here then was a use for Bruce's small reserve of cavalry. It charged the archers and dispersed them, and now the clumps of spearmen had to resist the onset of the English cavalry.

These soon found how judiciously the ground had been prepared for them. They were parcelled out in ten battles or battalions, but there was not room to move these separately on the narrow ground available for cavalry, and the whole seemed to their enemy thrown into one unorganised mass, or "*scheltum*" as they called it. The spearmen stood against the charges of the horsemen firm as a rock. It was one of the formidable features in their method of resistance that a great proportion of the wounds fell to the poor horses, who rushed hither and thither in their agony, or, as Barbour has it, the horses "that were sticked rushed and reeled right rudely."

In the front anything like combined movement or even ordinary discipline was speedily gone. There they were a mass of brave men well mounted for battle, and many desperate but useless onsets they made as single combatants on their compact enemy. Confusion was getting worse and worse, and only one result could be. It is said to have been hastened by the appearance of a set

of camp-followers on the sky-line of a neighbouring hill, who were mistaken for a fresh army of the Scots. The end was rout, confused and hopeless. The pitted field added to the disasters; for though they avoided it in their advance, many horsemen were pressed into it in the retreat, and floundered among the pitfalls. Through all the history of her great wars before and since, never did England suffer a humiliation deep enough to approach even comparison with this.

Besides the inferiority of the victorious army, Bannockburn is exceptional among battles by the utter helplessness of the defeated. There seems to have been no rallying-point anywhere. There was enough of material to have made two or three armies capable, in strong positions, of making a troublesome stand, and, at all events, of making good terms. But none of the parts of that mighty host could keep together, and the very chaos among the multitudes around seems to have perplexed the orderly army of the Scots. The foot-soldiers of the English army seem simply to have dispersed at all points, and the little said of them is painfully suggestive of the poor wanderers having to face the two alternatives—starvation in the wilds, or death at the hands of the peasantry. The cavalry fled right out towards England: why men with English manhood should have done so is a mystery. It was like the Scripture saying that the wicked flee when no man pursueth, for the little band of Scots mounted men was far too small for pursuit, and could not be let loose by any prudent commander among the vast mass of cavalry breaking away.

Perhaps this helplessness in flight, as also many other incidents of disaster, may be attributed to one cause—to the command being taken by the king himself, with his utter incapacity for the task. The only little gathering out of the dispersal of that huge army seems to have been a body of 500 knights who rallied round the king, but it was only to attend him in his headlong flight. To the Lothian peasant the mighty King of England galloping past like a criminal fleeing from justice must have been a sight not to be presently forgotten. The king reached

Dunbar, a fortress still in his own hands, and took shipping for Berwick.

The camp apparel left behind by the fugitives made a booty so extensive and so costly as to astound its captors. Scotland, as we have seen, was not an abjectly poor country at the commencement of the war. There evidently was a considerable body living in comfort; but the splendour then coming into vogue in such courts as those of France, Burgundy, and England, seems hardly to have been known in the land. We have seen what poor pickings King Edward took away with him from the royal treasures, yet he certainly did not leave much behind. The costly stuffs and valuables of many kinds found in the English camp became long a tradition in Scotland—indeed the articles themselves turn up centuries afterwards as remarkable possessions. We have a parallel to the affair in the rich booty which Charles the Bold of Burgundy provided for the Swiss peasantry; but why an English army took with it that heap of finery is not easily to be understood. There is reason to believe that a great part of the rich fabrics found their way to the cathedrals and religious houses, where they served for the adornment of the altars, for ecclesiastical robes, and the like.¹

Still more valuable than this inanimate merchandise was the living spoil—the crowd of noble captives who had to be ransomed. In this very lucrative kind of booty Bannockburn was peculiarly rich, from the nature of a conflict in which so much was gained by the disabling of the horses rather than of the riders. The ransoming of captives taken in war was then becoming a great trade throughout Europe, and was casting an ugly mercenary stain on the repute of chivalry. Instances were known where lives were taken among the comrades contending for the possession of the captive tenderly preserved from

¹ See Robertson's Preface (p. 26) to the inventories of the Jewels of Queen Mary, to whose possession some of them fell. In an inventory of the decorations of the great altar of the Cathedral of Aberdeen, taken a short time before the Reformation, there is mention of a bundle of robes "*ex spolio conflictus de Bannockburne.*"—*Registrum Episcopatus Aberdonensis*, ii. 189.

mischief, while in others he had suffered death in the very contention among those who each desired to keep him alive.

In dealing with this business, King Robert resolved to pursue a policy of moderation. He could well afford it. In his troubles and his triumphs, too, he remembered that he was still a Norman knight, and grand beyond any that ever fell to the lot of man was his opportunity for showing magnanimity to his old companions in arms. There are pleasant stories of his gracious dealing with them : among others, how Marmaduke de Twenge, the same who had made a gallant effort to redeem the day for England in the battle of Stirling Bridge, fell a poor fugitive in the king's way, and, yielding himself up as captive, was treated with a courtesy worthy of his high fame as a knight of prowess. If among his followers there was any tendency towards rapacity in the matter of the ransoms, the king seems to have appeased them by making over to them from the fund arising out of this source a portion properly belonging to himself. In the treatment of the dead, many of them the heads of the most distinguished houses in England, he also gained golden opinions. Much care was taken in their decorous interment with Church rites ; and in some instances, where application was made for such a concession, the body was removed to England with all decorous ceremonials, that it might be laid where the illustrious family of the slain man desired that his ashes should rest.

Among the prisoners was one whose story furnished the Scots with a merry jest to grace their triumph. He was a certain Carmelite friar, named Baston ; and it was said of him, whether truly or not, that he had been taken to see the battle in order that he might the better be able to perform a certain function assigned him, which was the celebration of the triumph of the English king as he returned victorious—an expectation which Bower characterises as proud presumption and presumptuous pride. He was told that, as the price of his ransom, he must celebrate the triumph of the real victors, and that without ambiguity. The result is preserved, and, whatever other

merits it may have, shows a laboriously earnest effort to accomplish his task to the satisfaction of his instructors.¹

Stirling Castle was delivered up in terms of the stipulation. Edward Bruce was blamed for having made it, and given such dangerous terms to England; but the result was fortunate.

¹ For instance, when the great confusion begins :—

“Est dolor immensus, augente dolore dolorem,
Est furor accensus, stimulante furore furorem,
Est clamor crescens, feriente priore priorem,
Est valor arescens, frustrante valore valorem,” &c.

—Scotichron., xii. 22

CHAPTER XXIV.

WAR OF INDEPENDENCE TO THE DEATH OF
ROBERT BRUCE.

EFFECT OF THE BATTLE OF BANNOCKBURN—A PARLIAMENT, AND THE ADJUSTMENT OF THE SUCCESSION—THE BRUCES INDUCED TO BECOME LEADERS OF THE IRISH NATIONAL PARTY—CAUSE OF THE IRISH SEEKING THEM—THE QUESTION OF THE INDEPENDENCE AGAIN BEFORE THE PAPAL COURT—ADVENTURES OF A CARDINAL EMISSARY SENT TO BRUCE—RECAPTURE OF BERWICK—BAFFLED ATTEMPTS OF ENGLAND TO RECOVER IT—RAID ON ENGLAND—A PARLIAMENT—THE SOLEMN ADDRESS TO THE POPE, AND RESOLUTION TO HOLD BY INDEPENDENCE—A GREAT INVASION OF SCOTLAND AGAIN ATTEMPTED—ITS FAILURE, AND THE METHOD OF IT—REVENGE TAKEN BY RAIDS ON ENGLAND—SUFFERINGS OF THE ENGLISH PEOPLE—DISAFFECTION IN THE NORTH—AID OFFERED TO SCOTLAND—INTERVENTION OF THE POPE—INVASION OF ENGLAND—THE TREATY OF NORTHAMPTON—THE DEATH OF BRUCE.

FOR a few years after the battle of Bannockburn there was little to stir the exhausted country save marauding incursions into England in the old cruel manner. They reached as far as York, and carried terror of the name of Scot into the very heart of England. Yet if such things have a justification, it was furnished by the perversity of the English king or his advisers. King Robert wrote to the King of England, saying there was nothing he so earnestly sought as a permanent good understanding between the two kingdoms. The King of England appointed commissioners to meet those of Scotland, but he would not concede the independence demanded of him, or treat Bruce as a sovereign.

On the 1st of May 1315, a Parliament was held to adjust

the order of succession. The nearest relations of Bruce were his daughter Marjory, his brother Edward, and his nephew Randolph. If the king left a son, he was to succeed. It was provided that, should there be no son, there might be a deviation from the pure hereditary rule on account of the necessity of a male ruler for Scotland in its present position. It was set forth that his daughter was the heir-apparent, but she had given her consent to be passed over for Edward Bruce, whose prowess as a warrior would be of infinite value.¹

Among other provisions for contingencies, some of them far off, should the succession open to a minor, the king's nephew, Randolph of Moray, was to be guardian of the kingdom.

Three years afterwards this arrangement had to be readjusted. Edward Bruce had been killed in Ireland, and the king's daughter, Marjory, had been married to the Steward of Scotland, and had died, leaving a son. By the Act of 1318 that son was heir of the crown, unless King Robert should leave male issue, as he did. By the same Act the principle of the succession to the crown of Scotland was laid down so as to obviate any misunderstanding of the divergence, made by the Act of 1315 for special purposes. The succession, not being subject to partitions like a private fief, was to go first to the male issue of the sovereign in their order of birth, next to the female issue, and these being exhausted, then to collaterals in the same fashion. The Act is thus an exposition of that pure law of hereditary descent which now renders the succession to the British throne as distinct and certain as any process in the exact sciences. If the principle had been admitted in England as distinctly as it was stated in the Scots Act, there would have been no room for the Wars of the Roses.²

The king appears soon afterwards to have gone with a force into the dominions of John of Lorn, which, as the chroniclers say, he brought under his subjection. These Celtic communities had, however, an elastic nature, which

¹ Scots Acts (Record edition), i. 104.

² *Ibid.*, i. 105.

enabled them to bear a conquest lightly, and resume their old condition when it was over. The notices of this expedition are of the briefest, and it left no mark in the reduction of these regions under the feudal organisation of the kingdom.

This occurred in the middle of a larger enterprise, which touches, but does not belong to, the history of Scotland. Edward Bruce, the king's impetuous and chivalrous younger brother, was invited to liberate Ireland from the English yoke, and threw himself impetuously into the project. This enterprise, however, was undertaken under conditions which give it an interest in both islands. If the people of Scotland were likely more keenly to resent, and more determinedly to resist, the Norman invaders than the Irish were, yet these were likely, after long continuance, to find the yoke more galling, since their masters brought with them that antipathy of race against race, which is hardened rather than softened by political combination. It was all the worse for the unhappy Celt that the Norman and the Saxon had common elements of brotherhood, which outgrew the political effect of conquest; this only enhanced the number of the Irishman's oppressors. For the natives there was hardly any law or political protection. In a remonstrance sent by a body of the chiefs to Pope John XXII., they assert, among other grievances, that the murder of an Irishman was not punished as a felony, and that it was held as doctrine, and uttered by the English clergy, that it was no more crime to slay a native than to kill a dog. The chieftains announce that, influenced by these and suchlike intolerable oppressions, they have called for aid on Edward de Bruce, the illustrious Earl of Carrick, brother-german of the most illustrious Lord Robert, by the grace of God King of the Scots, and a descendant of some of the most noble of their own ancestors.¹

Now that England was making no serious menace—

¹ This remonstrance, as given in the *Scotichronicon*, has been accepted by the Irish archæologists. See Todd's *Life of St Patrick*, p. 237, and authorities there referred to.

was, in fact, for the time intimidated—any opening for the temporary employment of the fighting men of Scotland seems to have been gladly welcomed; and Edward got the use of a large force. His brother, King Robert, followed him with reinforcements, becoming a leader in a formidable war, as if the future of his own country did not provide him with a sufficient amount of serious occupation. The adventures and achievements of the two are among the most exciting chapters in the romance of war. Many brave Scots were thus lost to their own country in the hour of need that was coming. Among the deaths, the most conspicuous was that of Edward Bruce himself; but that it was a loss to his country is open to question, for, gallant and popular as he was, his reputation was not of the kind that promises a good pilot in a storm.

There are some mysteries yet to be solved in this curious episode in history, so far as the motives and object of the Bruces are concerned. The natural solution is, that a Norman knight having by his sword achieved for himself a kingdom in Scotland, here was another Norman knight, his brother, who thought he might make a venture for equal fortune in another country where the people were kicking against the English yoke. On the other hand comes the question, whether any tradition of the claims through which the Scots of Albion professed to rule the Scots of Ireland may have lingered, and reappeared to create a mimicry of the English demands of superiority over Scotland, in the theory that Ireland should be held as feudally subordinate to the crown of Scotland.¹

We now, after an interval of some years, find the political condition of Scotland pressing for serious consideration at the Papal Court. We have seen how thoroughly the merits of the case for Scotland were understood there at the time when Baliol was nominally king. For some time afterwards there came nothing from that tribunal but

¹ The chief information, beyond the usual chronicles, about the invasion of Ireland by the Bruces, is perhaps to be found in the *Annals of Ireland*, by Friar Clyn and Thady Dowling, edited for the Irish Archæological Society by Dean Butler.

one or two injunctions to the Scots to preserve peace and order, which were uncertain in their sound, and certainly were not friendly. The remark generally made on this change of tone is, that the Pope was deserting his allies the Scots; but in reality it was in the Papal Court as it is in other courts—there were no suitors connected with the disputes in Britain pushing their cause there, and so there was no corresponding business done. Bruce's slaughter of the Red Comyn was a clear case of discipline, apart from all national questions, and excommunication was issued, but it was unheard in the din of war. After the ruin that had fallen on his invading force, the King of England had a keen desire for peace, but the Scots would not let him have it unless he acknowledged their independent sovereignty. Application was made to Rome for a pacificating bull, which was issued. It was addressed to our dearest son in Christ, the illustrious Edward, King of England, and our beloved son, the noble Robert de Bruce, conducting himself as King of Scotland. It lamented the loss of Christian blood in civil wars, when the rescue of the Holy Land was in vain calling for champions, and adjudged a truce between the countries for two years, excommunicating those who might break it.¹

The Papal Court no doubt acted under the influence of England on this occasion; but Scotland, a country that had been able to free itself and establish a government in thorough co-operation with the local Church, was entitled to serious consideration. There were some internal affairs in England at the same time demanding attention; and the Pope appointed two cardinals on a mission to England, with a staff of assistants and attendants worthy of so august an embassy. They arrived in England in the autumn of 1317. The cardinals sent two messengers, under a safe-conduct, to transact their business with the King of Scots. These wrote a confidential account of the result to their masters. It described a very curious interview, with a vivacity almost unnatural among the solemn writs of the Papal establishment. The messengers found

¹ *Fœdera* (Record edition), ii. 317.

the king, whose courtesy and affability seem to have had much influence on them. No one was more anxious to stop the effusion of blood; no one more devoutly conscious of the Holy Father's beneficence in making efforts in that direction. Then came the presentation of a sealed missive—perhaps it was a duplicate of a letter of exhortation delivered to the King of England.¹

King Robert looked at the address. The document was not for him: it was addressed to Robert Bruce, governing in Scotland. He himself was King of Scotland. He became jocular on the indelicacy of opening a letter probably intended for another; he could find several persons of the name of Robert Bruce, who might have a better claim on it than himself. The messengers pleaded the reluctance of the Court of the Holy Father to use any expressions committing him to a side in a temporal dispute. "Exactly," said the king, "but that is just what has been done by depriving me of my title of king." The messengers pressed on him the consideration of dispensing with ceremonials when the interests of humanity were at stake. The king said he would open the missive if Parliament would permit him, but he could not have their decision for some time. The messengers expressed their opinion that, even if the king had chosen to drop the formal objection, the Parliament would not have concurred in the concession. They found symptoms of very general indignation at the withdrawal of the title of king; it was set down as an insult done at the demand of England; and they mentioned that there was a poor man, sent with the usual letters of courtesy on the present Pope's accession, kept hanging on for three months, not being permitted to enter Scotland because he was not accredited to the king. Finally, the messengers prayed of King Robert that he would in the mean time suspend hostilities; but to this he gave a blunt refusal.²

Still the cardinals determined to make an effort to proclaim the bull, and got a monk in Berwick to undertake the duty. He found the king in a wood at Old Cambus,

¹ *Fœdera* (Record edition), ii. 317.

² *Ibid.*, ii. 340.

busily preparing engines for the siege of Berwick. He would not acknowledge anything not addressed to him as king. The monk preferred two requests—to be allowed to go forward to the Scots clergy and transact his business, or to be sent with a safe-conduct to Berwick. Both were denied; and attempting to find his way back he fell among thieves, who robbed him of all his Papal documents. The monk was of opinion that in this illegitimate form the parchments found their way to “the said Robert Bruce”—and the supposition is probable enough.

A new bull, heaping upon previous offences the contumely thrown on the Papal messengers, was sent to the cardinals, with vehement instructions to enforce it, along with the personal excommunication of Bruce for the slaughter of Comyn. There are certain established channels, however, through which all judicial writs, ecclesiastical or civil, must find their way to the persons affected by them; and through the national sympathies of the faithful clergy, it came to pass that no hostile documents from Rome could be legitimately served within Scotland.

There was perhaps more than one reason why the emissary of the cardinals should not be permitted to return peaceably to Berwick. He had seen, and apparently had examined with a critical eye, the engines which the Scots were preparing for the siege of that town, working at them, as he said, day and night to accomplish their wicked ends.¹ The siege seems to have been a far easier affair than Bruce expected to find it. There had at that time, indeed, fallen upon the English one of those fits of gloom and depression which have been known to visit the bravest nations after very heavy military disasters, and to make them act for a time like a doomed race with whom nothing can prosper. The town was entered almost without resistance, friends within having, it was said, given secret assistance. Even the castle held out feebly, and again their commercial capital belonged to the Scots. It was said that they in their turn found it full of costly mer-

¹ *Fœdera* (Record edition), ii. 340.

chandise. The English had now possessed it for above twenty years, and trade seems naturally to have flowed to it in their hands as it flowed before. The continual contests surrounding the place afterwards gradually rendered it unpropitious to the merchant and the shipper—it is certain that in later times its harbour was not suited for a maritime trade. It is possible that in the course of centuries the depth of water may have decreased; but probably, like many other deserted seafaring places in Scotland, it could accommodate the small craft of the thirteenth and fourteenth centuries, although insufficient for the heavier vessels of modern times.

This loss seems to have roused the energies of England. Bruce determined to preserve the fortress instead of leveling it as he had many others. It would appear, indeed, that the English had replaced the old lumbering fortifications of the Scots with a regular fortress in their own Edwardian style, some remnants of which may still be seen conspicuous among the glacis and counterscarps of that Vauban school which was again to replace the Norman. The acquisition was hence not to be thrown away, and Bruce made immediate preparations against an attack which he knew would exhaust every available resource of the mechanical science of the day. The Scots were then, and for centuries afterwards, poor engineers; they were better soldiers in the field than on the wall, and were often beholden to skilful foreigners in siege-work. For the protection of Berwick they had the aid of a skilful Flemish engineer named Crab; and to meet the gigantic operations of the enemy they had need of all he could do for them.

There were some remarkable specialties in the siege suggested by the nature of the ground. On the flat sandy plains to the north great mounds were raised and ditches dug—a fortress, in fact, was constructed to prevent the approach of an army of relief on the side of Scotland. Before it could help Berwick such an army must thus take a place nearly as strong. There must have been reasons, though they are not very distinct, why Bruce should have found it necessary to allow such works to go on. Next an attack of a peculiar kind was made from the sea. It was

supposed that from one of the wooden castles then carried by vessels—whence part of a ship is at this day called the forecastle—the city wall might be commanded. The first attempt, however, of this sort was baffled, and the ship from which it was made was burnt.

Another memorable feature in this siege was the trial of a masterpiece in the kind of movable towers or caravans, which were the prevalent tendency of the engineering accomplishments of the day. There were among these machines cats, wolves, and boars—the present was called a sow. It was, in fact, a timber tower full of men, with their catapults and other machines for assailing the wall, towards which it was moved with enormous labour. It seems to have been clear that if the garrison of Berwick did not destroy the sow, the sow would batter down an entrance in the city wall. The chances between the two issues had run to a critical point, when one of the great stones heaved over the wall by Crab's ingenious mechanism shattered the roof of the sow, and put the movable garrison within at the mercy of the besieged. As these, such of them as were not too sorely crushed under the shattered timbers, crawled out and made off, there was great jocularity through the garrison about the sow having "farrowed." For this time the English effort to recover Berwick, tremendous as it was, was baffled.¹

During the contest, of which Berwick was the centre, parties of the Scots were at the old work in the northern counties of England, with the view, according to the usual

¹ The sow seems to have become a favourite in England, and to have been used after the introduction of artillery so far down as the great civil wars of Charles I. We have this account of one brought up to attack Canon-Frome, in Herefordshire: "The engine was such a one as the like hath not been since these wars. The Roysters call it a sow; it was carried upon great wheels, and to be drawn with oxen; it was made with rooms or lofts one over another, musket-proof, and very strong, out of which were holes to play and shoot out. It was so high that it was above all the works at Canon-Frome, so that they could discharge over the works; besides which a door opened to bring them into the works, out of which a bridge went for their entrance."—Vicar's Chronicle, cited Grose, *Mil. Antiq.*, ii. 369.

phrase, of "creating a diversion" in favour of the garrison of Berwick. There had been two or three attempts by the English, both by sea and land, to retaliate on Scotland, but anything done leaves faint and feeble traces when set beside the terrible havoc worked in the northern counties of England. For a time after the proclamation of the Papal peace there was a profession of observing it in England, but there was none in Scotland; and unless the English were prepared to submit to everything, they must break the Papal peace too. Their chief stand was made in a peculiar manner, intended, no doubt, to bring up in their cause influences against which the arm of the flesh is as naught. The Scots were commanded by Douglas and Randolph—both in the early prime of life, and now, by hard and varied service, thorough adepts in all that a military leader of the day could know or do. Discontent kept away many who should have served in the English feudal force, and the part embodied was exclusively devoted to the siege of Berwick. The defence of the north devolved on the Archbishop of York, under whose auspices an army was improvised. A number of the ecclesiastics, carried off apparently by an expectation of a special intervention, joined this force. They seem to have been utterly untrained in war, and to have known so little of the use of the armour and weapons, that these came as unhandily to them as those of King Saul to David. This motley force met the Scots invaders at Mitton, near Borough Bridge in Yorkshire, on the 20th September 1319. But not the sacrilege of the Scots in scorning the Papal peace, nor the holiness of the cause which had brought champions from the cloister, nor the sacred sacerdotal character of these champions, could hinder the arm of the flesh from prevailing. Scots spearmen, now thoroughly hardened to war, made a memorable havoc among them. Three thousand is the number said to have been left dead—enough for a critical battle; and the conquerors in their pleasantry called the affair the *Chapter* of Mitton, on account of the prevalence of the ecclesiastical feature among their victims.

The northern counties of England had now suffered for

several years from army after army of marauders, each treading on the heels of another. What seems surprising is that there should have been in the land people to be attacked or plunder to be removed by those who joined in the later inroads. Yet in that now spoken of the Scots just failed to catch a great prize—no less than the Queen of England sojourning in York. It is more expressive, however, of the desolation made by the invaders, that by a writ of the year 1319, certain towns or villages, more than sixty in number, and many of them recognised market-towns of the present day, are exempted from taxation on account of the utter destitution brought on their inhabitants by the Scots invasion.¹

Yet all the laws of war, even those of our own time, would justify this terrible and indiscriminate retribution on the English people for the injuries which the Scots had suffered from the English Government. The longer, indeed, that the cruel persecution continued, the more ample was its justification. Just after the battle of Bannockburn it seemed needless, since the English king might be expected to abandon his claims on Scotland; but all the while Scotland was soliciting peace and the acknowledgment of independence, and all the while her solicitations were thrown back with scorn. The cruel retaliation has the best of justifications—it became in the end effective. England at last spoke of a truce from hostilities, as a preliminary to some ulterior permanent arrangement. It was adjusted on the 21st of December 1319, and was to last for two years.

On the part of Scotland, it was at the same time determined to bring a pressure to bear on the Papal Court. To evade responsibility by stopping up the proper official channels through which the writs of the Holy Court had to pass, might serve a temporary turn, but was not a wise permanent policy for a Christian state in that age. The Papal Court, too, showed itself very determined. It was trying the policy of iteration—issuing excommunications and other denunciatory documents in rapid succession,

¹ *Fœdera* (Record edition), ii. 409.

each carrying additional emphasis from the failure of its predecessor. Thus the records of the time are strewn with these fulminations against Scotland, while the nation is supposed to have remained in serene calm, unconscious of the ecclesiastical storm outside. Everything was of course done by England that could be done to give efficiency to the Papal edicts. The occasion of the adjustment of the truce was not lost—in fact, it was improved in a manner creditable to the ingenuity of the King of England's advisers. He could not treat with an excommunicated man like Robert Bruce without obtaining a Papal dispensation for doing so; he applied for the dispensation, and it was graciously conceded.¹

In a Parliament assembled in the Abbey of Arbroath, a solemn address to the Pope was adopted on the 6th of April 1320. In the last appearance before the Papal Court, Scotland had made a powerful impression. The country had since let the enemy get the ear of that tribunal, with no perceptible effort to counteract the influence; and had borne, almost unmoved, the torrent of Papal invective consequently scattered against it. And now, in making once for all a great remonstrance against the wrongs thus accumulated on the nation, the Scots Parliament were successful in accomplishing their object, with a becoming and mournful dignity that has made their remonstrance illustrious among the utterings of national wrongs and appeals for national mercy and justice. At the beginning a word is said in answer to the English fabulous genealogies which carried back the subjection of Scotland to the Trojan line of succession; but this is quickly abandoned, and Scotland pleads her immediate cause, thus:—

The country had been in peace and content, and unpractised in war, when the great King of England, finding it so and without a head, under the guise of friendly intervention, attempted to destroy its liberties and conquer

¹ “Ad Papam pro licentia habendi tractatum cum Scotis quamvis excommunicatis.”—*Fœdera* (Record edition), ii. 391. “Bulla de licentia tractandi de pace cum excommunicatis.”—*Ibid.*

it for himself. These acts of rapacity and cruelty are set forth, and emphasis not too strong is judiciously laid on the ruin brought by him on ecclesiastics and religious establishments. Then came the deliverer and the restorer of freedom, whose achievements for the country are acknowledged with a fervent and decorous gratitude. To him, for what he has achieved for them, the people of Scotland are bound to adhere; yet, to show that their determination not to submit to England predominates over every other feeling, they assure the Pope that if their beloved king were to submit to the supremacy of the King of England, they would cast him forth and choose another ruler; for so long as a hundred of them remain alive they are determined not to be subject to the King of England. By all the considerations of love and mercy that should influence the head of Christianity, his Holiness is besought to interpose and move the heart of the King of England to leave the Scots to the enjoyment of their liberties in their own remote and obscure corner of the world. The concluding sentences draw persuasive arguments out of matter which had been giving much trouble and uneasiness to the Court of Rome—the degeneracy of zeal among Christian princes for the defence of the Holy Land against the Saracens. The Scots nation were willing to join in the good cause, but they could not while a powerful neighbour's aggressions bound them to the defence of their homes and liberties.¹

¹ No abridgment can convey a fair notion of this memorable document: indeed, much of its power and terseness is lost in translation from the Latin original. Among such translations as the Author has noticed, the most spirited was printed at the time of the Revolution of 1688, and reprinted in 1820 in the collection called *Miscellanea Scotica*. It is more spirited than the others, because, instead of attempting to retain the terseness of the Latin, it expands into tolerably idiomatic English. The following is the essential part—that which follows on the short exordium about the antiquity of Scotland:—

“Upon the weighty consideration of these things, our most holy fathers, your predecessors, did with many great and singular favours and privileges, fence and secure this kingdom and people, as being the peculiar charge and care of the brother of St Peter; so that our nation hath hitherto lived in freedom and quietness under their protection, till the magnificent King Edward, father to the present King of

As appropriate to this point, the Pope's memorialists venture on a general political remark. They say that the great states are entirely occupied in attempts to subdue their weaker neighbours. It was quite true. The states

England, did, under the colour of friendship and allyance, or confederacie, with innumerable oppressions, infest us, who minded no fraud or deceit, at a time when we were without a king or head, and when the people were unacquainted with warres and invasions. It is impossible for any whose own experience hath not informed him to describe, or fully to understand, the injuries, blood, and violence, the depredations and fire, the imprisonments of prelates, the burning, slaughter, and robbery committed upon holy persons and religious houses, and a vast multitude of other barbarities, which that king execute on this people, without sparing of any sex or age, religion or order of men whatsoever.

"But at length it pleased God, who only can heal after wounds, to restore us to libertie from these innumerable calamities, by our most serene Prince King and Lord Robert, who, for the delivering of his people and his own rightful inheritance from the enemies' hand, did, like another Josua or Maccabeus, most chearfully undergo all manner of toyle, fatigue, hardship, and hazard. The Divine Providence, the right of succession by the laws and customs of the kingdom (which we will defend till death), and the due and lawfull consent and assent of all the people, made him our king and prince. To him we are obliged and resolved to adhere in all things, both upon the account of his right and his own merit, as being the person who hath restored the people's safety, in defence of their liberties. But, after all, if this prince shall leave these principles he hath so nobly pursued, and consent that we or our kingdom be subjected to the king or people of England, we will immediately endeavour to expell him as our enemy, and as the subverter both of his own and our rights, and will make another king who will defend our liberties : for so long as there shall but one hundred of us remain alive, we will never give consent to subject our selves to the dominion of the English. For it is not glory, it is not riches, neither is it honour, but it is liberty alone that we fight and contend for, which no honest man will lose but with his life.

"For these reasons, most reverend father and lord, we do, with most earnest prayers, from our bended knees and hearts, beg and entreat your Holiness, that you may be pleased, with a sincere and cordial piety, to consider that with Him whose vicar on earth you are there is no respect nor distinction of Jew nor Greek, Scots nor English, and that with a tender and fatherly eye, you may look upon the calamities and straits brought upon us and the Church of God by the English ; and that you may admonish and exhort the King of England (who may well rest satisfied with his own possessions, since that kingdom of old used to be sufficient for seven or moe kings), to suffer us to live at peace in that narrow spot of Scotland, beyond which

that were to be the great powers of Europe were then in rapid growth, and the food on which they grew was the small, separate, feeble states scattered round them.

The Scots memorial had an immediate effect at the

we have no habitation, since we desire nothing but our own, and we, on our part, as farr as we are able, with respect to our own condition, shall effectually agree to him in everything that may procure our quiet.

"It is your concernment, most holy father, to interpose in this, when you see how far the violence and barbaritie of the Pagans is let loose to rage against Christendom for punishing of the sins of the Christians, and how much they dayly encroach upon the Christian territories. And it is your interest to notice, that there be no ground given for reflecting on your memory, if you should suffer any part of the Church to come under a scandal or ecclipse (which we pray God may prevent) during your times.

"Let it therefore please your Holiness to exhort the Christian princes not to make the warres between them and their neighbours a pretext for not going to the relief of the Holy Land, since that is not the true cause of the impediment; the truer ground of it is, that they have a much nearer prospect of advantage, and far less opposition, in the subduing of their weaker neighbours. And God (who is ignorant of nothing) knows with how much chearfulness both our king and we would goe thither, if the King of England would leave us in peace, and we doe hereby testifie and declare it to the Vicar of Christ, and to all Christendom.

"But, if your Holyness shall be too credulous of the English misrepresentations, and not give firm credit to what we have said, nor desist to favour the English, to our destruction, wee must believe that the Most High will lay to your charge all the blood, loss of souls, and other calamities that shall follow on either hand betwixt us and them.

"Your Holiness, in granting our just desires, will oblige us in every case, where our duty shall require it, to endeavour your satisfaction, as becomes the obedient sons of the Vicar of Christ.

"We commit the defence of our cause to Him who is the Sovereigne King and Judge, we cast the burden of our cares upon Him, and hope for such an issue as may give strength and courage to us, and bring our enemies to nothing. The most high God long preserve your serenity and Holyness to his holy Church."—*Miscellanea Scotica*, iii. 125-128.

This is entirely a lay document, and for some special reason the clergy are not mentioned as concurring in it as they concurred in the other legislative acts and national state papers of the day. It is in the name of the barons, the free tenants, and the whole community of Scotland; but the names of the most eminent barons are given—and the list is valuable, as giving us the avowed heads of the national party at that time. They are—Duncan, Earl of Fife; Randolph, Earl of Moray; Patrick de Dunbar, Earl of March; Malice, Earl of

Papal Court; the character of that effect, as it may be gathered from the documents that followed, might be pronounced astounding. The fulminations against Scotland at once stopped, but those which had gone forth were not immediately revoked. An admonitory bull, dated at the end of July, was addressed to King Edward. It did not show acquaintance with the nature of the dispute on either side. It exhorted the king to consider whether, after all, it would not be better to come to some terms with the governor of the kingdom of Scotland. These wars, it was said, created sad misery and devastation, and it was ever uncertain how they might end; and there was the cause of the Holy Land neglected and the Paynim unchecked, while the potentates of Christian Europe were brawling among each other.¹ Presently afterwards the Pope writes to say that two commissioners and ambassadors were pleading the cause of the Scots before him—Edward de Mambuisson and Adam de Gordon. They prayed for the

Strathearn; Malcolm, Earl of Lennox; William, Earl of Ross; Magnus, Earl of Caithness and Orkney; William, Earl of Sutherland; Walter, the Steward of Scotland; William de Soulis, Butler of Scotland; James, Lord of Douglas; Roger de Mowbray; David, Lord of Brechin; David de Graham; Ingleram d'Umfraville; John of Menteith, Custos of the Comitatus of Menteith; Alexander Fraser; Gilbert de Hay, Constable of Scotland; Robert de Keith, Marishal of Scotland; Henry de St Clair, John de Graham, David de Lyndesay, William Oliphant, Patrick de Graham, John de Fendon, William de Abernethy, David de Wemyss, William de Montfitchet, Fergus de Ardrossan, Eustace de Maxwell, William de Ramsay, William de Monte Alto, Allan de Murray, Donald Campbell, John Cambroun, Reginald le Cheyne, Alexander de Seton, Andrew de Lascelyne, and Alexander de Straton.

In the hall of the General Register House for Scotland may be seen the duplicate of this address to the Pope, which was preserved at home. It is worn and a little decayed, but has been preserved on the whole with such pious care that few words are illegible. Many of the seals still dangling to it show clear impressions in their green or red wax. It was engraved by Anderson for his *Diplomata*, and printed by Sir George Mackenzie in his tract on *Precedence*. A facsimile of the parchment, seals and all, is contained in the first volume of the Scots Acts; another is in the second part of the *Collection of Chronicles and Records* edited under the auspices of the Lord Clerk Register.

¹ *Fœdera* (Record edition), ii. 431.

relaxation of the interdicts and other Papal writs issued to the detriment of Scotland ; but the Pope said he did not find it among their credentials or instructions that they were to make such an application to him. He would grant no relaxation, but he agreed to suspend the question until the calends of April. It was the postponement of a difficulty on a point of form—a common resource in the holy tribunal as in many others.¹

Admonished by the Papal Court, beset with difficulties in England, and harassed by a Scots invasion of the usual kind immediately on the conclusion of the truce, there seemed nothing for it but to submit to the humiliation of treating for good and all with Scotland. Twelve commissioners were appointed—four to be a quorum—with power to treat with Scotland for a permanent settlement.² But presently afterwards King Edward was victorious over his dangerous home enemy, Lancaster, and there was an immediate change in the policy of England. This was in very triumphant terms announced to the Papal Court, with an assurance that no more trouble would be given about truces or other difficulties in the matter of Scotland. His Holiness had, out of his beneficence, interposed to give a breathing space, and Edward in his hour of need had been glad of it, but he required such help no more. By the blessed God's favour his hands were now free at home in England, and he was to take the proper steps to set matters right elsewhere.³ This was early in 1322. Again there were preparations for a great and final invasion of Scotland. But the country was stronger than it had been eight years before, and was not compelled by the force of circumstances to risk a critical battle on a given day and at a given spot. To give England a foretaste of the character of the new war, the Scots began it by a raid across the border, as far as Lancashire, where, according to the accounts of the day, they swept away with them in their usual light-handed manner a booty well worth their pains—though how their previous pillaging should have left anything in that part of England worth carrying off is a mystery.

¹ *Fœdera* (Rec. ed.), ii. 432. ² *Ibid.*, ii. 440, 441. ³ *Ibid.* ii. 481.

In midsummer a great English army was again ready to invade Scotland—the chroniclers say, as they did of the army defeated at Bannockburn, that it numbered a hundred thousand men. The policy of the Scots was the same that Wallace tried before the battle of Falkirk, to leave the enemy to march over bare fields, and to keep clear of a battle. The people in the southern counties had gradually assimilated themselves to the conditions of such a warfare. They lived in huts which, if the enemy thought it worth while to destroy them, could be easily rebuilt with the stone and turf at hand. Their agricultural riches were far less than they had been before the war began, and they had got into the way of scampering off on the shortest notice with their poor belongings, getting in among those broken uplands not far distant from any part of the country, where they were out of the way of the march of heavily-appointed armies like those which England now sent forth.

The season was well on in August when this new army crossed the border; but the harvest cannot have advanced so far as to afford any available food, for we are told that all along as they went was blank famine. There was much jocularly about their obtaining near Tranent, in East Lothian, a bull—a poor lame beast left behind when its brethren were driven to the hills. The Scots army waited beyond the Firth of Forth, leaving the invaders in the hands of a deadlier enemy—starvation. This, according to the English accounts, did its work with signal effect while the army was still in the Lothians. That within a day or two's march of their own frontier an army should have been so utterly ruined, as the English chroniclers tell us, is astounding, from the almost inconceivable carelessness it reveals in the preparations for invasion. The disastrous picture is completed when we are told that the starved wretches who were able to drag themselves across the border died in multitudes, from the rapacity with which they fell upon the food presented to them on English ground.¹

¹ The most distinct account of the affair on the English side will be found in Walsingham (Rolls edition), i. 166.

The Scots chroniclers charge the retreating army with the destruction of the Abbeys of Holyrood and Melrose, and the Monastery of Dryburgh.¹

The Scots army was on this occasion able to do what Wallace had intended—hang on the heels of the fugitives, and harass them in every shape. Here was another of those marauding invasions of the north of England, so numerous that it is difficult to remember their order of succession. The inhabitants seem to have taken example from Scots practice, and to have learned to drive their cattle southward. This is attested by royal warrants to the Sheriff of York and his assistants, directing them to see that the animals are hospitably received within their jurisdiction.²

King Edward was resting in Billand Abbey when the alarm came that the Scots were upon him. Luckily for himself he did not trust his safety to his own camp, strongly posted in the neighbourhood, but took flight, pursued by the Steward at the head of five hundred men, until he got safe within the gates of York. The Scots were in good force under their king and Randolph, and they determined to drive the enemy from their position on a rocky eminence; these might be called an army in a fortified camp, but were in truth rather a body of dispirited refugees seeking safety. They were dislodged by small parties climbing up into the broken ground which protected them, and it is said that in this duty King Robert got good service from some of the "Irishry" of Argyle and the Isles, who formed part of his army.³ So dislodged from their strength, they were dispersed, with loss in killed and captives.

¹ *Scotichron.*, xii. 4. About this period we may take Bower as an authority, making allowance for his prejudice against England. He cannot be quite correct in saying that Dryburgh was entirely reduced to powder, since part of the building yet remaining is of an older date than the invasion.

² There are two of these contemporary with the Scots inroads before and after the English invasion.—*Fœdera* (Record edition), ii. 490, 496.

³ *Barbour*, cxxxvi.

About this time the English Government seem to have become awake to a very alarming feature bearing on their dispute with Scotland. It would naturally be supposed that the sufferings of the northern counties from the ceaseless incursions of the Scots would embitter the inhabitants and their leaders against the enemies of their king. On the contrary, a feeling seems to have arisen that the King of England was unable to protect them, and that the King of Scots might be a more desirable master. There had been of old much community of feeling between these northern districts and their neighbours of the Lothians, and the traditions that they had formerly been one community were probably still alive. Through the course of the war occasional instances turn up where persons of influence in the old disputed districts are found on the side of the Scots.¹

In occasional letters of Remission, in which Edward II. offered to receive into his peace all those of the Scots nation who might proffer their allegiance to him, it was specially stipulated that the privilege was not to extend to such native-born inhabitants of England as had taken part against him.²

In January 1323 King Edward wrote to Hartcla, Earl of Carlisle, the Warden of the Marches, stating his astonishment at hearing that the earls, barons, and knights of the northern counties had been adjusting on their own account a truce with the Scots, enemies of the crown, and severely rating his warden—whom he suspected not to be ignorant of this affair—for not having at once informed his sovereign of it.³ The person, indeed, whom he thus addressed, was deeply implicated in the secret treaty. When Lancaster was strengthening himself against the king, he was in correspondence with Randolph and other leaders of the Scots; and it is pretty clear that his object

¹ "In 1319 Thomas Gray was, for good services against the Scots, gifted with certain lands in Howick, near Alnwick, forfeited by reason of their owner, John Maitland, having joined the Scots."—Introduction to *Scalacronica*, xix., xx. See the instance of De Ros above, p. 197, note.

² *Fœdera* (Record edition), ii. 440.

³ *Ibid.*, ii. 502.

was to gain the northern barons to himself by an arrangement which would exempt them from these devastating inroads of the Scots.¹ Lancaster was defeated and executed, and as a reward for effective aid in this service, Hartcla was received into royal favour, became Earl of Carlisle, and was intrusted with the onerous duty of guarding the marches. Whatever mystery may attend Lancaster's movements, it is clear that Hartcla went decidedly into the project of the northern barons for a separate understanding with Scotland. The letter just cited was addressed to him while he was believed to have concealed what he should have told. We next find a proclamation for Hartcla's capture as a traitor. He was seized, and charged with employing the influence he had acquired through the high offices of trust conferred on him, in treating with the king's enemies of Scotland; and he was executed after the usual manner of a traitor in England.²

The evidence that he had worked for such a fate is aided by incidental testimony. There exists in the library of the Vatican a parchment, professing to be a treaty between the Government of Scotland on the one side, and Hartcla and his followers on the other. It gives King Robert his full title.³ The professed object is to put an end to the invasions of Scotland by England, and to the devastations of the northern counties by the Scots. To this end the King of Scots is to lead an army into England. When he has crossed the border, he is not only to spare Hartcla and his followers, protecting their lands as if they were part of his own dominions of Scotland, but he is to co-operate with them as represented by their leader. For the adjustment of any disputed points a council of twelve is to be chosen—six by the King of Scots, and six by the other party to the treaty. In the preamble of motives usual to such agreements, there stands along with

¹ Proceedings against the Earl of Lancaster, State Trials, i. 44.

² *Fœdera* (Record edition), ii. 504, 507, 509.

³ *Inter serenissimum principem dominum Robertum Dei gracia regem Scotorum, illustrem et magnificum virum dominum Andream de Arcla comitem Karleoli super pacis reformatione inter regna predicta.*—*Tractatus Proc. Antiq. Scot.*, iii. 458.

the promotion of internal peace in the two countries the prospect of each being free to promote the crusades. King Robert, too, is to found a monastery for the souls of those slain in the war.¹ From the tenor of all that is known of this affair, and especially from the number and power of those embarked in it, and their distinct animosity to the King of England, it may be inferred that, had the peace not been speedily concluded, the negotiations would have opened the question of stretching the marches of Scotland to the Humber.

It is in harmony with this strange piece of by-play in the history of the war, that in the ensuing negotiations King Robert put in a claim of dominion over the old debated land north of the Humber. If this was done merely as a threat, to weigh against the determination on the other side not to acknowledge the independent sovereignty of Scotland, it would have all the more weight that things had occurred to render the fulfilment of such a demand not utterly chimerical.

Such considerations, taking weight from the warlike spirit of the Scots and their continued success, pressed urgently on the Government of England the establishment of a permanent peace, and the question what should be given for it was solemnly discussed in a great council. The great difficulty was the acknowledgment of independence. Apart from the general desire of every party in diplomacy to give as little and take as much as possible, it was natural that England should try to keep the name at least of the great conquest to the very last. But it was a point on which the other party were absolute in their general demand, and sensitive to everything that appeared evasive. King Robert put into the conferences an angry remonstrance against a form of truce, in which the people

¹ *Concordatio facta inter Anglicos et Scotos* 3d January 1322-23, communicated by Professor Munch, *Proc. Ant. Scot.*, iii. 454. This critical document seems to have been negotiated at Lochmaben. Its phraseology leaves room to doubt how far King Robert was acquainted with the transaction. He undertakes "per nobilem virum Thomam Ranulphi comitem Moraviæ dominum vallis Anandiæ et Manniæ nepotem dicti Regis Scociæ."

of Scotland were the party dealt with, maintaining that it was more insulting than its predecessors, which, if they did not acknowledge a king, at all events professed to treat with a government. The affair resolved itself into a sort of compromise or sufferance. Bruce and his people were permitted to *take* the titles of king and kingdom, but England would not *give* them. On the 7th of June 1323, King Robert issued a solemn instrument accepting of a truce, or rather of a permanent peace, for his kingdom of Scotland.¹ In this document the war came to an end, but the fundamental quarrel remained, and might break out into contest at any time.

The peace was to last for thirteen years, so that before it came to its natural close each country would have an opportunity of gathering its fruits. To England it was an immediate relief from a heavy pressure; and it was hardly concluded when writs were issued, dispensing with the attendance of the chiefs of the Irishry and of certain Gascon levies, called out to assist in the war against Scotland.²

It was now of moment that Scotland and the king should be put right with the Papal Court. A missionary, who would not have been expected to undertake such a duty, agreed to go to Avignon, where the Court then was, and try what his diplomatic skill could do for his country. This was the king's nephew, Randolph, Earl of Moray. He was, as we have seen him at Bannockburn, a hardy warrior, not bred in a school likely to send forth pupils

¹ "Forma Treugæ, per Robertum de Brus signatæ, in promissis prætermisso, sed at finem titulo regis expressato." — *Fœdera* (Record edition), ii. 524. We have only the copy of this document as preserved in England, and it is somewhat confused, as if mixed up with others, but it contains the essential clause: "Nous, Robert Roi d'Escoce avandit, par assent des evesques, countes, et barones de nostre roialme, les dites soeffrance et trieve, et toutes les choses susecrites, et chescune de les pur nous, nos soutzmis aeredauntz et aid-auntz, et pur notre roialme d'Escoce avandit voloms, looms, ratifioms, aggreoms, et de certeine science approvomes." — For the preliminary documents in the negotiations, see *Fœdera* (Record edition), ii. 510, 511, 518, 521, 523.

² *Fœdera* (Record edition), ii. 523.

who could cope with subtle ecclesiastics in diplomacy : yet he seems to have had wonderful success. As strange as the mission itself is the source whence we know about it—a bull addressed by the Pope to King Edward in January 1324, in which his Holiness describes his interviews with the Scotsman with a distinct minuteness closely approaching to gossip. He tells how the noble Earl of Moray, having obtained an audience, spoke of his anxiety to do service in the Holy Land in fulfilment of a vow made by him ; and prayed that he might receive at the Holy Father's hands the licences and indulgences usually bestowed on those so devoting themselves. The Pope, by his own account, declined the request : his petitioner was but an individual man, who could not do much in his own person for the great cause ; and in the granting of his request there were heavy spiritual disabilities to be taken off him as one of an excommunicated people. He went on, however, to speak of the unhappy discords between King Edward and the Scots—how blessed a thing it would be, not only for the contending parties but for all Christendom, that their contest should come to an end, and how opportune for the cause of the Christian contest in the Holy Land. If the noble earl would turn himself to giving effective service towards such a pacification, then the Pope would be ready to favour him, always provided that his country had submitted to the proper steps for reconciliation with Holy Church.

Randolph immediately explained that ambassadors had been formally appointed to lay the case of Scotland before his Holiness and plead for reconciliation, and in humble manner he requested that his Holiness would grant to them a safe-conduct to travel towards his presence. The Pope refused to provide them with such credentials ; but promised to issue letters, apostolical, requisitorial, and monitory, requiring the potentates through whose territories they had to pass, to look to their safety :—the difference seems to have been that the Pope would not address to these excommunicated persons a document in their favour, but had no objection to direct others to help and protect them. Randolph then said that it was the

earnest desire of his uncle, the King of Scots, to join King Philip of France in an expedition to the Holy Land—and indeed, even if Philip of France should not carry out his intention, to send a Scots expedition, headed either by himself or by his nephew, then propounding the matter to the Pope. To this it was answered, that such an expedition would not be seemly while his uncle continued at enmity with the King of England and unreconciled to Holy Church, and his Holiness could do nothing to further it. Here the matter seems to have come to the desired point. Randolph explained that there was no man more devoted and dutiful to Holy Church than his uncle. He was desirous to do whatever was required of him to show his duty and obedience, if he knew how. But, unfortunately, he had hitherto been prevented by technical mistakes from knowing the pleasure of the Holy Father regarding him. Once knowing it, Randolph gave assurance that he would be found a thoroughly dutiful son. And to make it known to him there was a simple method—address future exhortatory letters to him by the title of King. The Pope admitted that he consented to this; and it was to explain, and indeed virtually to apologise for, such consent that he wrote so fully to King Edward. The missive ends with some mumbling arguments, to show that no harm could really be done to King Edward. Edward, however, remonstrated angrily against this easy way of treating a vital question. On the whole, the impression left by the Pope's account is, that the rough Scots soldier had overreached him in diplomatic subtlety.¹

The next event of moment bearing on the position and external relations of Scotland is the conclusion of a treaty with France. It was negotiated by Randolph, with the assistance of the Earl Marshal and three churchmen.

¹ *Fœdera* (Record edition), ii. 541: "Bulla Papæ de colloquio inter ipsum et comitem de Murref et super titulo 'Regis' in literis ad Robertum de Brus scribendis." If this bull be entered of its proper date, it is difficult to understand how it should not have come up in the course of the dialogue that a peace with England had then been established upwards of half a year. For Edward's remonstrance, see *Fœdera*, ii. 549.

The state of the succession to the crown in France gave ground for apprehension, should there be an ambitious king of England of the Plantagenist race, and the great object of the Treaty of Cerbeil, as it was called, was to make common cause against England. Certain stipulations are mutual. Any peace between France and England ceases if there is war between England and Scotland, and so of any peace between England and Scotland should there be war between France and England. But besides these negative conditions, as they may be called, there was one positive condition laid on the Scots side alone—whenever England and France are at war, then is the King of Scotland to invade England with all his might.¹

In 1327 came that tragic revolution in England which placed the boy Edward III. on the throne. It was the custom then for new monarchs to renew the obligations of their predecessors; and a renewal of the truce was offered in the name of Edward III., but it was in the old offensive shape—in favour of Robert Bruce and his adherents. At the same time authority was given in the same terms to treat for a final peace. The English records show several documents, after the signing of the truce, to the same effect. It is difficult to see how, having obtained a truce or peace for thirteen years, England should be so desirous to obtain a final and lasting peace, and yet should ask for it in terms which she knew would preclude the Scots from treating.² The whole affair suggests a suspicion that the object was to obliterate or neutralise the effect of any document in which Bruce stood on record as King of Scots. Other things tended with this to irritate the Scots.

¹ *Memoirs of the Ancient Alliance between France and England*, Reprint, 1820. It is perhaps to be regretted that we have no better authority than this collection for the express terms of the treaty, but they are in conformity with the general tenor of French treaties, and with the stipulation in the Treaty of Northampton, which, in binding the Scots to peace with England, exempts them from the obligation when the terms of the alliance with France require them to be at war. A copy of the treaty is referred to in Robertson's *Index to the Charters*, p. 106.

² *Fœdera* (Record edition), ii. 561, 576, 577.

The English Government continued to pester the Papal Court to resume the denunciatory writs against Scotland. In 1324, Edward Baliol, the son of him who had held the title of King in Scotland, was brought over to England with much solemnity as an illustrious person.¹ After-events revealed a deep motive in this. The Scots, in short, were determined to bring the truce to a practical stop by one of their old inroads. Vast preparations were made on the other side, and we are told, besides the feudal levy, of the splendidly-mounted knights from Hainault, Flanders, and other states, as far as Bohemia, who flocked to reap knightly renown under the banner of the King of England.²

The "good King Robert," as his people were in use to call him, was now justified by age and infirmity in declining military duty, but the expedition was committed to the thoroughly competent hands of Douglas and Randolph. As it was to be a flying expedition to scour the country, the men were mounted. Their horses were utterly unlike the heavy war-steeds of the French or English cavalry. They were not for battle, but to bring the fighting men to their ground, and were of a small wiry breed, easily fed, and capable of bearing great fatigue. This expedition had the fortune to interest the great master of narrative and description—Froissart. He took a keen delight in mastering all the specialties and practical details connected with remarkable instances of chivalry or daring. Thus the marvels of the Scots expedition excited his curiosity; and though he was not born until a few years after it, everything he says is so true to the nature of the country and of the people concerned, that there is little doubt of his having got his information by closely questioning eyewitnesses of the affair. He at once brings on the stage the Scots troops with vivid distinctness in all the peculiarities in which they differed from the heavy chivalry of the day. No train of baggage-waggons followed them; they rode lightly, with no other camp-furnishings but the thin iron plate on which they baked their

¹ *Frœdera* (Rec. ed.), ii. 558, 567.

² Froissart, chap. xv.

oatmeal bannock, as the Scots of the north do still. Their food they picked up as they went—sometimes more than they needed; but when it was scant, their hardy training kept them still fit for duty; and so they swept the country, plundering and burning.¹ Froissart makes up the number of this army to twenty-four thousand. His enumeration of the English force mounts to sixty-two thousand. “It was said that there were eight thousand men-at-arms, knights and esquires, and thirty thousand men armed and equipped, half of whom were mounted on small hackneys; the other half were countrymen on foot, sent by the towns and paid by them. There were also twenty-four thousand archers on foot, beside all the crew of followers of the army.” So they marched onwards from York, where they mustered—a noble army, fit for great achievements, could they have but found an enemy to fight with. As they went, the distant flames and smoke from burnt homesteads and villages showed them the track of the enemy, but to come face to face with them was impracticable. But they

¹ “They bring no carriages with them, on account of the mountains they have to pass in Northumberland; neither do they carry with them any provisions of bread or wine; for their habits of sobriety are such, in time of war, that they will live for a long time on flesh half sodden, without bread, and drink the river-water without wine. They have, therefore, no occasion for pots or pans, for they dress the flesh of their cattle in the skins, after they have taken them off: and being sure to find plenty of them in the country which they invade, they carry none with them. Under the flaps of his saddle each man carries a broad plate of metal; behind the saddle, a little bag of oatmeal: when they have eaten too much of the sodden flesh, and their stomach appears weak and empty, they place this plate over the fire, mix with water their oatmeal, and when the plate is heated, they put a little of the paste upon it, and make a thin cake, like a cracknel or biscuit, which they eat to warm their stomachs: it is therefore no wonder that they perform a longer day’s march than other soldiers. In this manner the Scots entered England, destroying and burning everything as they passed. They seized more cattle than they knew what to do with. Their army consisted of 4000 men-at-arms, knights and esquires, well mounted; besides, 20,000 men, bold and hardy, armed after the manner of their country, and mounted upon little hackneys that are never tied up or dressed, but turned, immediately after the day’s march, to pasture on the heath or in the fields.”—Froissart’s *Chronicles of England, France, &c.*, i. 18.

soon lost sight even of such distant traces of their nimble enemy, as they moved in heavy marching order, with all the camp apparel. It was resolved, therefore, to adopt, as far as possible, the device of the enemy, and follow them unencumbered. It was in an evil moment that this plan was formed. It was taken for granted that the Scots must repossess a ford of the Tyne by which they had passed southwards, so the English army crossed that ford, and formed on the northern side, to attack the Scots as they recrossed. It was not then their intention, however, to cross; in fact, they were away southward at their work of pillage. For a whole week did the English army wait at that ford, and the miseries they suffered—a large army in their own country—are such as one only hears of in accounts of poor fugitives in a strange land, surrounded by enemies. They seem to have had difficulty in finding out where they were, until they learned that they were about half-way between Carlisle and Newcastle, with no nearer place whence they could draw supplies. For the first three days they could get little or no food; during the other four they drew a scanty supply by distant foraging. Then it rained day after day, as it is apt to do in that region, and, uncovered as they were, everything about them was soaked, and the very leather of their accoutrements rotted. This inaction and suffering became intolerable, and the army crossed back over the river, and resumed a march as vague and purposeless as its watching had been. A proclamation was issued in the king's name, offering knighthood and an estate of a hundred a-year to him who could tell where the Scots army was. After four more weary days' march a horseman came galloping to the camp to claim the reward. He had found the Scots, and had been taken prisoner by them. When he told them of the reward, they sent him off to gain it, saying they had been waiting a week for the English army, and were as impatient to receive them as they could be to attack—and now they were but three leagues off. The joy attending this information was somewhat damped when the army came up to the enemy. These were posted on a ridge of strong rocky ground, with a rapid

stream—the Wear—in front. It was hopeless to assail them.

The English now tried a plan peculiar to the fashionable notions of the period. They put it to the chivalrous feeling of the Scots, whether they would abandon their advantages and have a fair stand-up fight. Either the English would move backwards, and give the Scots an opportunity of coming over to their side ; or, if the Scots would courteously give them an opportunity, the English would go over to their side and fight them. Such concessions were not uncommon, and were much admired as a high development of the spirit of chivalry. But the Scots had too serious a stake in hand to sell it for such empty distinctions. They gave a rather scornful refusal to either alternative. There they were, who had invaded the dominions of the King of England, plundering and destroying at their will ; and if they had in this offended him, let him come and punish them.

The English were still half-starved, while the Scots, who could better have stood such a fate, were well stocked with English-fed beef and mutton. They seem to have tried to aggravate the contrast by extravagant pretences at roistering joviality, and indulged, as the foreign historian says, in “such a blasting and noise with their horns, that it seemed as if all the great devils from hell had come there.” The English plan was now a blockade to starve them out. On the morning of the fourth day after their arrival the English could scarcely credit their eyes when they beheld the crowded rock of yesterday untenanted. The Scots had moved off to other ground of the same kind, which suited them better, as it gave them communications in the rear through marshy ground, which they could easily defend.

The blockade recommenced, but the English army was not allowed to be entirely inactive. On the first night a cry arose in camp that the Black Douglas was upon them. He had swept round from a distance with some two hundred followers, on a small episodical raid, not without some hope, it was thought, of kidnapping the young king ; but he had to retreat without that prize, after doing a

good deal of mischief.¹ The English waited on eighteen days, expecting that famine would come to the Scots, and compel them either to submit or fight. On the last day there was reason to suppose that they were driven to the second alternative, and the expectation was matter of much serious consideration, weakened as the English army now was. From such anxiety they were relieved next morning by finding that their enemy had again disappeared. They were many miles off on their way home before they were missed. The English could hardly believe in this second evasion, until some of them cautiously crept into the camp, where they found evidence that their enemy had been as yet far from starvation.² There was nothing for it now but to let the remains of that brilliant army be dispersed. It was a sorry first experience in warfare to the heroic Edward III., and must have sadly humiliated England in the estimation of the foreign levies, were it not that these had their own share in the almost inconceivable mismanagement of the campaign.

When the expedition returned to Scotland there was immediate preparation for another against the eastern counties; and it was begun by the siege of Norham. England was suffering from debt and internal difficulties; and if such invasions were repeated, there was every chance of Scotland annexing the old debated land. It

¹ Hemingford, 268.

² "Some of the English, however, mounted their horses, passed the river, and went to the mountain which the Scots had quitted, and found more than 500 large cattle, which the enemy had killed, as they were too heavy to carry with them, and too slow to follow them, and they wished not to let them fall into the hands of the English alive. They found there also more than 300 caldrons, made of leather with the hair on the outside, which were hung on the fires full of water and meat, ready for boiling. There were also upwards of 1000 spits with meat on them, prepared for roasting; and more than 10,000 pairs of old worn-out shoes, made of undressed leather, which the Scots had left there. There were found five poor English prisoners, whom the Scots had bound naked to the trees, and some of them had their legs broken; they untied them, and sent them away, and then returned to the army just as they were setting out on their march to England, by orders from the king and council."—*Froissart's Chronicles of England, France, &c.*, i. 24.

was time at last to treat on such terms as the Scots would listen to. A truce was adjusted in the mean time. Next, at a Parliament held at York in January 1328, a document was prepared and issued in the king's name, acknowledging the independent sovereignty of Scotland. It is discursive in solemnities, as such documents were in use to be, but in the essentials it is quite clear. The King of England declares for himself and his heirs, that the kingdom of Scotland shall remain for ever to the great prince, Lord Robert, by the grace of God illustrious King of Scotland, and to his heirs and successors; and that Scotland, by its old marches in the days of King Alexander, shall be separated from the kingdom of England, and free of all claim of subjection or vassalage, while all writings or obligations inconsistent with this independence are to be cancelled.¹

It was but putting the transaction into proper diplomatic shape, that all objection to the independent position of one party should be abandoned by the other, in order that they might treat on terms of equality. The treaty which followed on this resolution by Parliament was concluded at Edinburgh on the 17th of March. It was ratified by the Parliament of England at Northampton in April, and hence is called the Treaty of Northampton.

The treaty makes provision for a royal alliance, to be afterwards mentioned—this occupies, by court etiquette, the prominent place in the record of the treaty. Next comes a promise that the two kings shall be faithful allies to each other, and live in peace and harmony, with reservation of the obligations of the King of Scots to his ally the King of France; but if, in the keeping of these obligations, the King of Scots find it necessary to make war in England, then the King of England may make war in Scotland—a stipulation which seems to be very reasonable.

¹ The copy of this important state paper which has been chiefly relied on, is that preserved in the *Scotichronicon*, xiii. 12. There is a copy of it, as reported to a meeting of the Scots Estates held at Edinburgh on 17th March, in the first volume of the Scots Acts, p. 126.

All documents in the possession of the King of England containing stipulations inconsistent with the independence of Scotland are declared void, and are to be given up to the King of Scots wherever they may be found ; but if the condition by which the King of England consents to annul them becomes void, then they are to be returned. This odd stipulation is explained by other stipulations. Scotland agrees to pay to England, by three instalments, the sum of twenty thousand pounds sterling, apparently as damages for the mischief done in the recent raids across the border ; and if there is failure in the punctual payment of this money, the stipulation for cancelling the documents prejudicial to the independence of Scotland becomes void. There is another stipulation which reveals something of the position of both kingdoms as to the alien and outlying provinces. If the Irish rebel, the King of Scotland is not to help them ; and so of the inhabitants of the Scots islands, the King of England is not to aid them in war against the King of Scotland. The King of England agrees to use his good services in the withdrawal of all proceedings at the Court of Rome prejudicial to King Robert or his dominions.

There is no doubt that this treaty was eminently favourable to Scotland. It was felt as a provoking check on the opportunities which, as we shall see, afterwards opened for the resumption by England of the policy of conquest. It is treated by some of the early annalists as one of the acts of treason to the country committed by those who had the command of England at that time. Others, again, deny that it was ever accepted by England. The denial has been repeated in later times ; and it is curious to find that while so many diplomatic papers, comparatively of trifling moment, have been preserved to us among the records of England, this treaty has been dropped out of them. We have it only from the duplicate preserved in Scotland, which is, however, authenticated by the representatives of England.¹

¹ Scots Acts, i. 124. An abstract and account of the document is given in Robertson's *Index to the Charters*, p. 101. It is there stated

We are told that, either under separate stipulations, or in accordance with the spirit of the Treaty of Northampton, the Black Rood was restored to Scotland; and that it was intended to restore the Stone of Destiny, but the citizens of London would not permit it to be removed.¹ Probably they were less affected by hatred to Scotland than by a reverence for the sacred character of the relic.

While the contest with England was drawing to this conclusion, Scotland was not entirely without domestic history. A Parliament held in 1318 passed so many laws relating to special matters of order and good government, that an account of them would be as little emphatic or palatable to the reader as an abridgment of the proceedings of a modern session of Parliament. It may be mentioned as showing the progress then made in notions of internal organisation, that an Act was passed professing to accomplish an object which at the present day statute after statute seems to essay in vain—the treatment of that valuable fish, the salmon, in such manner that it may be consumed so far as, and no farther than, may be consistent with the due preservation of the breed. Another statute seems more to the purpose of its day: it is for the arming of the people, and requires that each man with ten

that it has “the seals of the three lay plenipotentiaries still pretty entire—those of Percy and Scrope especially.” No historical position could be more preposterous than the denial, which some have thought it proper to make for the honour of England, that this treaty was ever accepted. Although it was not to be found in the old editions of the *Fœdera*, it is repeatedly referred to in documents there, and especially in some which convey pretty hard dunning for payment of instalments of the 20,000 pounds stipulated as damages for the sufferings of England. The penalty for failure to pay was, that Scotland was to be left unreleased from the heavy ecclesiastical writs out against her king and people at the Papal Court, and the reference to this alternative imparts to the demand for payment a curious mixture of the secular and the spiritual. These applications, instead of being addressed, like the documents before the treaty, to a private person, are “*Magnifico domino David Regi Scotorum illustro*,” and proceed “*magnificentiam vestram requirimus et rogamus quatenus denarios illos*,” &c. The treaty is in the Record edition of the *Fœdera*, ii. 730.

¹ Chron. Lanercost, 261.

pounds shall in time of war have an acton or doublet of proof, with a basnet or iron head-piece, gloves of plate, and a spear or sword. Instead of an acton and basnet he might have a habergeon or jacket, with a hood for the head, plated with iron scales.¹

The great barons who held estates both in England and Scotland had by this time, either of choice or necessity, to attach themselves to the one country or to the other. The tendency of European politics at the time was to extinguish that sort of free citizenship in several states which had arisen with feudality and chivalry, and to require undivided allegiance from all the inhabitants of a state. Those who had cast their lot with England could not, of course, be permitted to retain their domains in Scotland. We do not find, however, among extant documents, such acts either of general or particular forfeiture as we might expect. Perhaps no such measure was necessary, and a short and very unnoticeable Act of the Parliament of 1318 may have accomplished the object in a shape less offensive. That Act, pleading the necessities of a country which has to defend itself by war, prohibits the removal of any commodities or money from the kingdom of Scotland. Those who lived in England could thus draw nothing from their estates.² It is easy to believe that there might be a deep policy in this. Men whose estates are solemnly forfeited are driven into a hostile position, perhaps prematurely. If no more was done against the exiles than the short Act expresses, then their position as Scots subjects was not changed; they were welcome to all its privileges, but to obtain them they must return to Scotland, and, living under the laws of the country, fight against its enemies.

¹ Of the English troops of the same period Grose says (*Military Antiquities*, i. 125), "Most of these in the earlier periods were defensively armed with a kind of iron skull-cap named a *bacinet*, from its similarity to a basin, and a coarse leathern or linen doublet stuffed with cotton or wool, called an *ackton* or *hoqueton*, and sometimes a *jack*."

² "Na kyrkman of quhat sum evir condicioun or stat he be the whylk ony thyng hes within the kynrick, na zit ony lawyt man the quhilkis hes rentis or possessiounis sal presome to leid or to send gudis or rentis utouth the kynrick."—*Scots Acts*, i. 113.

Another Parliament was held at Cambuskenneth in July 1326. It is remarkable as being the earliest in which the representatives of the burghal corporations are minuted as having assisted. A great tax was levied by that Parliament, and as the burgesses would have to pay their portion, so their representatives consented to it. It was for the purpose of meeting the cost of the war, and amounted to the tenth penny of all rents or profits from land. The amount was to be assessed according to the extent or valuation of Alexander III.'s time, with an exemption to lands desolated by the war. The tax was limited to the lifetime of the king. There were provisions for its being equally collected and passed into the exchequer, so that if any persons were favoured by remission of their share the grant itself should be null. The Parliament spoke of the intolerable weight of the feudal exactions, especially when they were stretched; and in consideration of their liberal grant, especially limited the power of the prerogative to the fair exaction of the established feudal dues.

It is among the events of King Robert's reign, that in the year 1320 a conspiracy against him was discovered, and those concerned in it punished. It leaves no more impression on the history of the period than mere names, yet it had a far-off source. The hero of it—the person who was to supersede the king—was a De Soulis, a descendant of that Nicholas de Soulis, the competitor for the crown, whose ancestor, Allan the Durward, had attempted, as we have seen, to get his wife legitimated as a daughter of William the Lion. Could he have effected this, her descendants would have been unquestionably the nearest heirs to the crown.

In March 1324 a son was born to King Robert by his second wife, Elizabeth, daughter of Aymer de Burgh, Earl of Ulster. This event superseded the arrangements for the succession to the throne. By the Treaty of Northampton it was provided that this infant should marry Joanna, the daughter of Edward II. of England, and there were complicated arrangements for another matrimonial alliance calculated to keep the peace between the two countries if this should fail.

The good King Robert was visibly approaching the end of his days on earth, and none can follow him to their conclusion without a feeling of satisfaction, that in the infirmities from which he could not recover he had the proud satisfaction of possessing that Treaty of Northampton—the certificate that he had recovered for his Scots people their conquered kingdom. He died at Cardross, near Dumbarton, on the 7th of June, in the year 1329.

A reign such as that of the good King Robert could not fail to leave a strong and enduring impression on the hearts of a manly and kindly people. What he had of adversity, endurance, and struggle in his early days, told for their emancipation as well as the triumphs of his later. Down to the last moment of all, the tenor of his reign was success after success, and afterwards it became all the more illustrious by contrast with the evil days that followed. For some little time after his death his name was still recalled to his faithful countrymen by stories of chivalry and romance occurring far away, yet closely associated with the memory and influence of their beloved champion. We know that, following up the dying injunctions of the hero, his heart was taken to Spain by the good Lord James of Douglas. The chroniclers further tell us how he joined Alphonso, King of Leon and Castile, then at war with the Moorish chief Osmyn of Granada; how, in a keen contest with the Moslems, Douglas flung before him the casket containing the precious relic, crying out, "Onward as thou wert wont, thou noble heart!—Douglas will follow thee!" how Douglas was slain, but how his body was recovered, and also the precious casket: and how in the end Douglas was laid with his ancestors, and the heart of Bruce deposited in the church of Melrose Abbey.¹

¹ A bull of the year 1330 gives Papal absolution for the extraction of the heart from the body, and its removal by Douglas in terms of his master's injunction. The story of the chronicles is that he was on his way to Palestine, but the bull shows that his original mission was to Spain, that the heart might be borne "in bello contra Saracenos."—Theiner *Vetera Monumenta*, 251.

CHAPTER XXV.

NARRATIVE TO THE ACCESSION OF THE HOUSE
OF STEWART.

ACCESSION OF DAVID BRUCE—EDWARD BALIOL AND HIS CLAIMS—THEIR HARMONY WITH THOSE OF THE DISINHERITED NORMAN BARONS—EDWARD BALIOL'S INVASION—BATTLE OF DUPLIN—ENGLISH INVASION—SIEGE OF BERWICK—BATTLE OF HALIDON HILL—EDWARD BALIOL GIVES HOMAGE FOR SCOTLAND—HIS SUCCESSES AND REVERSES—PECULIAR METHOD IN WHICH EDWARD III.'S AID WAS REMUNERATED BY TERRITORY IN SCOTLAND—ENGLISH INVASION—CONNECTION OF SCOTLAND WITH FRANCE—THE FIELD OF ENTERPRISE THERE OPENED TO EDWARD III.—CONSEQUENT RELIEF TO SCOTLAND—GRADUAL EXPULSION OF THE ENGLISH—SIR ANDREW MORAY'S REGENCY—BATTLE OF COLBLEEN—DEPARTURE OF BALIOL—DEMORALISING INFLUENCE OF THIS CONTEST—PORTION OF SOUTHERN SCOTLAND RETAINED BY ENGLAND—THE BATTLE OF NEVILLE'S CROSS—ITS INFLUENCE—CAPTURE OF KING DAVID—POLITICAL EFFECTS OF HIS CAPTIVITY—HIS RANSOM, AND THE SACRIFICES FOR IT—AN ENGLISH INVASION—DESECRATION OF THE RELIGIOUS HOUSES—KING DAVID IN SCOTLAND—HIS UNSATISFACTORY CONDUCT AS A KING OF SCOTS—SECRET ARRANGEMENTS—PARLIAMENT AND ITS PROCEEDINGS.

DAVID, the son of the good King Robert, was in Scotland the accepted and undisputed successor to his throne: he was a boy five years old. His coronation at Scone was attended by ceremonies giving it peculiar lustre. We learn that the religious mystery of the anointing of the king was performed on the occasion by the Bishop of St Andrews, under a special bull from the Court of Rome.¹

It was the first instance in Scotland of anointing—

¹ Scotichron., xiii. 21.

the first at least since the country became a faithful child of the Church of Rome ; and in the eye of that Church it conferred on the monarch's title a sacredness which no right of succession or civil ceremony could impart. In the pleadings before Edward I., when he sat as lord superior, it was frequently thrown out against Scotland's claim of independent sovereignty that her kings had not been anointed ; and of course Robert the Bruce, at war as he was with the ecclesiastical powers, had no chance of being so consecrated, though it was through the influence established by his reign that the country obtained its high position at the Court of Rome, and the undertaking that the King of Scots was to become an anointed monarch.¹

Under the Act for the settlement of the crown, the trusty Randolph became Regent. He died in July 1332, just as the new troubles of the kingdom were beginning, and he left behind him a traditional reputation for even-handed justice and wonderful sagacity. He was succeeded by another nephew of King Robert—the son of Christian his sister—Donald, Earl of Mar, a man whose career did not prove him capable of meeting the difficulties he had to deal with.

It soon became clear that it was not for nothing that the Court of England had brought over Edward Baliol from France and cherished him as an illustrious guest. He carried with him something of the lustre of fallen greatness. It was now more than thirty years since as a boy he was the avowed heir of the crown of Scotland, and was deemed through this prospect a fitting match for a daughter of France. The principle of hereditary succession had been scrupulously acknowledged in the coronation of King Robert's son, though the critical condition of the country

¹ The Papal writ conferring this privilege has lately been discovered and printed. It concedes to King Robert and his successors, "*inunctio et coronatio, &c., manu sacra pontificis.*"—Theiner *Vetera Monumenta*, 244. We have seen that King Aidan was anointed by St Columba, and enthroned with other mysteries of high sanctity (chap. ix.) But as we are told the story, that was done under a higher sanction than Rome could impart.

called for able leadership ; and King Robert had left two nephews of mature years—one of them, Randolph, a warrior tried and true, and, now that his uncle and the good Lord James were gone, the most popular man in Scotland. Yet this very punctiliousness of the hereditary principle, if carried out, would exclude the whole family of Bruce and carry the crown to this Edward Baliol, residing as a cherished guest at the Court of England.

Further, as the natural result of events in Scotland, there was a body of men whose title to domains there was precisely of the same character as Edward Baliol's title to the crown : these were the barons who, having estates in both countries, had taken part with England. Although no acts of forfeiture may have been issued against them, yet, as we have seen, they virtually lost their estates, and the loss was rendered emphatic in some instances by their seeing others put in possession of what their ancestors had owned. Here were well-fitted elements of a common cause between an aspirant to a throne and his supporters.

It is instructive to glance at the genealogical position and territorial claims of these supporters so far as they are revealed. In the English records of the period there are several remonstrances, importing that Scotland had failed to observe certain stipulations made on occasion of the Treaty of Northampton for the restoration to English subjects of the estates held by them in Scotland. Among these the Percies of Northumberland made a claim, which was satisfied for the time, although their domains in Scotland must have been lost at an early period in the ensuing wars.¹ At the same time we find James of Douglas restored to the estates in England that seem to have come to his house by marriage. The connection of these names with land questions in both countries at such a juncture, may give us a lively and practical notion of the arbitrary way in which the war adjusted nationalities among those great houses whose parents held territories in both countries and frequented both courts, though that of England

¹ Hailes, ii. 229, and passage there cited from Dugdale's *Baronage*.

had the predominant attraction. The Percies became the hereditary guardians of the north and the scourge of Scotland. Their services in the defence of the English frontier raised them, as nearly as the English constitution would admit, into such a secondary sovereignty as the Margravates of the Empire, which arose out of the influence acquired by those who could protect the frontiers from invasion. The power of the Douglasses arose in a similar manner in Scotland. Yet probably a little difference in the distribution of their estates—more to the Percies in Scotland or to the Douglasses in England—might have inverted their position, and made the Percies national to Scotland, the Douglasses to England. Another of the dispossessed lords spoken for in the English remonstrances was Henry de Beaumont. He claimed the lordship of Buchan, the same that Bruce harried after the battle of Inverury. It then belonged, as we have seen, to a branch of the Comyns, lords of Buchan and constables of Scotland; but the great English Baron Bellmont or Beaumont claimed the territory as husband of the heiress of the Comyns. Thomas, Lord Wake, is another name in the English remonstrances; he claimed the lordship of Liddel, or Liddesdale. It seems not to have been denied, on the part of Scotland, that these claims were supported by treaty stipulations; yet for some reasons, whether justified or not by events, the claimants were not put in possession of the estates demanded by them.

The Earl of Athole was one of the largest claimants among the disinherited, and the history of his house through three generations is a fair example of the fluctuations and changes in nationality among his class; for although he had a title thoroughly Scots, as Earl of Athole, he was a Norman Baron with great estates in the south of England. The house goes back, though not with a very distinct genealogy, to Donald Bane, and was one of the few of native origin which obtained an early earldom. In the middle of the thirteenth century, the Lady Fernelith was Countess of Athole in her own right. She was married to David de Hastings, who traced relationship to the royal family of England. Their daughter,

heiress of the two houses, married John of Strathbogie, of the house of Macduff, so that the male head of the house of Athole was again of native name and race. The next heir, David, married an English heiress, who brought him Childham Castle, and other great possessions in Kent. Taking, on the one hand, the vast mountain territories of Athole and Strathbogie, on the other side the fertile domains of the house in the south of England, one might imagine, from the conduct of their holder, that the two sets of interests were very nearly balanced, and apt to predominate in turn. The son of the lady who brought the Kentish estates to the family is that same John, Earl of Athole, who joined in Bruce's dash for the crown, and was executed at London in 1306. His son David took service with Bruce, and became his Lord High Constable. For some reason, however, whether connected with the restoration of the English estates or not, he is found disappearing from Scotland a year or two before the battle of Bannockburn and taking service with King Edward.

We have yet, even in this one family, to find other estates, both in Scotland and in England, coming to weigh against each other. Here it is necessary to go back to Comyn, Lord of Badenoch, slain by Bruce and Kilpatrick in Dumfries. This Comyn was married to Joan de Valence, who, with her sister, was coheiress of Aymer de Valence, Earl of Pembroke, King Edward's governor of Scotland at the time when Bruce started for the crown. Comyn had a son, who died about the year 1325, leaving his two sisters as his heirs. That Earl of Athole who had passed from the service of Scotland into that of England married one of these coheiresses. Thus his son David, at the time we have reached, was heir not only of the Athole and Macduff countries in Scotland, and of the Hasting and Childham domains in England, but also represented a coheiress's share in Badenoch and the other possessions of the Comyns in Scotland, and a similar share in the inheritance of one whose name stands in history in so inimical a position to Scotland as the Aymer de Valence, Earl of Pembroke, who, as English governor of Scotland, had to do battle with Bruce. These estates seem to have been among the

most extensive belonging to any English subject, and to have given the Earl of Athole claims in the counties of Norfolk, Suffolk, Essex, Hertford, Lincoln, and Northumberland. On the other hand, the fragments of our records of Scots land-rights reveal to us gifts of the Athole estates to partisans of Bruce—the great bulk of them apparently going to the family of Campbell of Lochawe, the husband of his sister Mary.

Disposals of the Comyn estates also turn up in the records, showing that, besides the great Highland lordship of Badenoch, there were at the crown's disposal fragments of property belonging to that house in Teviotdale, Clydesdale, Dumbarton, and the Lowlands of Perthshire.¹

This sketch of family history may serve as a specimen of the interests which caused oscillations in allegiance sadly calamitous to Scotland. There were many other barons attached to the English Court who had claims of a like kind on Scotland. For instance, Talbot of Goderich Castle, in Hertfordshire, represented the sister of Athole's mother, the coheiress of the estates of the Comyns of Badenoch. The family of De Quincy, Earl of Winchester, had estates in the south of Scotland—one of them, Tranent in East Lothian—and we find English Mortimers and De la Zouches putting in claims which are traced to an heiress of the De Quincys. In the middle of the thirteenth century there was a Matilda, the heiress of the earldom of Angus, held seemingly by a native family; she was the daughter of Malcolm, who was the son of Duncan, and the grandson of Gilchrist. This lady married Gilbert d'Umfraville, Lord of Redesdale, Prudhoe, and Herbottil, in Northumberland, and carried her rights into his family. It was their son who, as governor of the Castle of Dundee at the opening of the War of Independence, objected to resign his command to any but the Scots Estates, who had commissioned him. The family became decidedly English, and King Robert disposed of their estates in Scot-

¹ See Wood's *Peerage*—Athole and Badenoch; and Robertson's *Index to the Charters*.

land, while the representative of the house at the time of Bruce's death naturally wished to recover them.¹

Infested by such elements of discord, it is only natural to find Scotland affording a sort of brief rehearsal of the Wars of the Roses. "The disinherited barons" gathered round Edward Baliol, and, putting him in front as their king, they resolved to try their fortunes in Scotland. The Government of England acted so far with decorum, as to make proclamation on the borders against attempts to break the peace with Scotland. The barons and their leader thus found it necessary to go by sea, and they landed in Fifeshire in August 1332, to the number, as it is said, of 500 mounted men and 3000 foot. They marched onwards to Strathearn, where there was a large army under the command of Mar, the new Regent of Scotland. It was posted near Duplin, on a broad gradual slope—the kind of ground which suits great armies for manœuvring against each other for the upper ground. There seems here, however, to have been no generalship on either side. Edward Baliol was no soldier, and the force he landed with was what we have seen. Yet he attacked and routed a large army. The affair is one of the mysteries of war. That Mar's army did not choose to fight against Baliol and his supporters would be the natural solution, but for the enormous slaughter which, beyond doubt, befell the army which professed to fight for King David. Edward Baliol now fortified himself in Perth. There another large army invested him, but dispersed without doing, or indeed attempting to do, anything that a force, either with its heart in a cause, or under the orders of responsible officers, should have done. On the 24th of September 1332 he was crowned at Scone; and thenceforth for a while we find in the English records mention of Edward, by the grace of God King of Scotland.

These records contain a special item, dated 23d November 1332. It is the certificate of an acknowledgment by

¹ Wood's Peerage—Angus. See an examination of the genealogical position of "the disinherited barons" in Hailes's Annals, ii. 177 *et seq.*

King Edward of vassalage to the King of England for his fief of Scotland. It is, like the documents connected with Edward I.'s feudal claim, saturated with forms and technicalities, as if the skill of the scribe who drafted it could make it perpetual. It tells how Edward's father had been invested with the crown of Scotland by the lord superior; how he had committed offences wherethrough it was justly forfeited to the superior; and how a usurper had in the mean time come in and held the fief by force. As the father whom Edward represented had forfeited his fief by his misdeeds against his superior, his son could not succeed to the fief unless he were accepted as a vassal by the King of England; and this being done, the infeudation of Scotland was again as complete as parchment could make it.¹ There is no reason to presume that the people of Scotland knew anything about the notarial docket of this transaction, or had any notice that there had come a great revolution in their condition as a nation. Nearly at the same time King David was removed out of the way of the contest, and hospitably received at the Court of Paris.

The events that follow cannot be grouped and distinguished like those of a war with two sides having a question of nationality or of principle to divide them. It was not even the simple question between dynasties; with this there were mixed up considerations of person, connection, and property all over the country, and the quarrelling is intermixed like the personal contests in an excited mob. At one time we find the new king overmastered by numbers near Annan in Dumfriesshire, fleeing half naked across the English border for protection. Then there are raids across the border, and England, which professed to let the contest in Scotland work its own way, now finds that the Peace of Northampton has been broken by the Scots. It was determined to punish the aggression, and give substantial aid to the new king. This gives for a time distinctness to events—it is again England and Scotland measuring swords. The usual summonses and commissions were issued, and a great

¹ See the documents in *Fœdera*, ii. 847.

English army was assembled at Newcastle in the spring of 1333. Berwick was, as formerly, to be the first object. The vast system of fortifications for which Edward I. had given the practical hint had been sedulously carried out, making indeed two great strongholds—a castle and a fortified town, each under its own governor. Again a trial was made by a ship attack from the estuary of the Tweed, but it was beaten off as before. The land siege was, however, pressed by a great army, with every siege engine of the day. The Scots meanwhile, under the guardian, tried the old game of a formidable raid into England, threatening to carry off the Queen of England from Bamborough Castle; but this great Norman fortress was too strong to be in serious danger from a light-armed flying force, and the English army was not to be diverted away from its chief object. The English force was far too powerful to be long resisted. There were treaties with the besieged, who were accused of bad faith in still holding out; but the end was, that on a given day the town and castle were to be yielded if they were not succoured, and the test of an effectual succour was to be two hundred of the Scots army actually joining the garrison of the town.

The Scots army marched out of England, and crossed the Tweed at a safe distance. They found the English posted on Halidon Hill, rising westward of the town, and now approached by rows of villas. The ground around its lower slopes was then a marsh, which strengthened the position. The Scots army were led by the new regent or guardian, Douglas, and by the Steward of Scotland, yet a youth. There were some of the old tried captains of Bruce's wars present, but in inferior posts. Here the conditions of Bannockburn were almost inverted. The Scots, if they would fight the English, must attack them on their own ground. The assailants on foot were struggling through the morass, where they were exposed to the deadly skill of that department of the English army which was ever becoming more formidable—the bowmen. There was no possibility of dispersing them with cavalry, and the Scots army, ere it reached the English, was but an attenuated fragment of itself, easily dealt with. There was no escape from an exterminating slaughter, and the

warlike renown of England almost recovered at Halidon Hill what it had lost at Bannockburn.

Berwick had to yield. Though afterwards repeatedly changing hands, the town never remained so long in the possession of Scotland as to be more to the country than a military post of the enemy held for a time and then retaken. Hence, from the day of Halidon Hill, Berwick was virtually the one permanent acquisition to England by the great war, unless we may include the Isle of Man. This, the farthest south of the groups of islands which held but a light and fluctuating allegiance to the crown of Scotland, was occupied and retained by England. Allusion has already been made to the trouble given for centuries to English legislators and men of business by this acquisition of Berwick, after the boundaries of England had been long adjusted. In mere topography Berwick held rank as a respectable market-town with a small foreign trade. But owing to its eventful career, the place was long burdened with an official staff, which, in its nomenclature at least, was pompous as that of a sovereign state. The English Government, after Scotland was lost, retained the official staff which Edward I. had designed for the administration of the country. It was huddled together within Berwick as a centre, and was in readiness to expand over such districts of southern Scotland as England acquired from time to time—was ready to spread over the whole country when the proper time should come. Soon after the recapture of Berwick, as we shall see, there was a prospect of such expansion. The active field for this body, however, was contracted by degrees, and at last it was confined to the town and liberties of Berwick, which were thus honoured by the possession of a Lord Chancellor, a Lord Chamberlain, and other high officers; while the district had its own Domesday Book and other records adapted to a sovereignty on the model of the kingdom of England.

Soon after this victory, in the beginning of the year 1334, came transactions which appear on the English records as the Acts of a Parliament held at Edinburgh, but they have no place in the records of Scotland. There

are entered as present in that Parliament seven bishops. These are followed by four names representing the barons; one of them thoroughly belongs to Scotland—Patrick of Dunbar, Lord March, the governor of the Castle of Berwick at the time of the capitulation. The other three are thoroughly English—Athole and Bellmont, whose family history we have seen, and Richard Talbot, taking the title of Earl of Mar, bestowed on him no doubt by Edward Baliol. Then it is set forth that there were present many barons, magnates, and other persons of the kingdom of Scotland, clerical and lay.¹ The proceedings, like those before King Edward I. in his court of Lord Superior, are drawn up and attested by a notary of the Empire. The whole is as unlike an Act of the Parliament of Scotland as it could well be. It wants that "excellent brevity" which Bacon found in the old Scots Acts. At every stage, whether of preliminary, ceremonial, or of actual business, it is protested in a profusion of words that what is done has been deliberately weighed and considered, and has without doubt received the assent of all and singular, the bishops, prelates, earls, magnates, and men of Scotland assembled on the occasion listening and giving their assent thereto, and no one gainsaying. Through these profuse formalities two transactions are traceable. The one is a declaration of King Edward Baliol's homage and fealty for Scotland to King Edward of England; it was evidently desirable that this should be on record, not merely in the personal name of the vassal, but as a condition admitted by a free Scots Parliament numerous attended. The other transaction was the conferring of a testimonial or reward on the King of England for his services in helping the true heir of the crown of Scotland to recover his fief. The form of the reward was a rent-charge of two thousand *libratae*, to be made good on land in Scotland.² By way

¹ "Et aliis quamplurimis baronibus, magnatibus, proceribus et hominibus tam clericis quam laicis dicti regni Scotiae."

² It has been much disputed whether this word means a sum of money secured on land, or a certain acreage of land pledged. See Ducange, "*Libra; Librata.*" The author of '*Les Termes de la Laye,*' says *Librata Terrae* contains four oxgangs; and he says, on

of giving effect to this obligation, the town and territory of Berwick are made over to the King of England. So much for the business professed to be accomplished by an Act of Parliament.¹

There followed presently a supplement to the transaction, in which King Edward Baliol acted alone by charter, without professing parliamentary sanction. It was the fulfilment of the gift of two thousand libratae of land. Berwick alone was insufficient as a security to cover that amount, and therefore, in addition, the King of England was to have possession of the town, castle, and county of Roxburgh, of the town, castle, and forest of Jedburgh, and in the same manner, with their towns and castles, of the counties of the Lothians, Peebles, and Dumfries. It was, in the shape of a mortgage for a debt, a gift to England of the districts south of the Forth.² The shape of this transaction reminds one of the English fictions of law, now obsolete, by which entails were docked, or questionable titles to land rectified, by common recoveries, or other actions by fictitious personages.

Absolute sovereignty over the most accessible part of the country—a sworn vassal ruling over the rest—the hold of England upon Scotland was of a far more likely kind than Edward I.'s notion of absolute conquest, had the arrangement gone further than writing and sealing. The English Government proceeded immediately to make good its position by establishing an English official organisation in the newly-acquired territory.

For three years after this the fighting continued, and was of the same chaotic character. There were even divi-

the authority of the Scots author Skene, in his 'De Verborum Significatione,' that an oxgang consists of thirteen acres. What Skene says, under the head of Bovata Terræ, is, "Some land is mair fertile and uther mair barren—alwaies ane oxengate of land suld contene threttene acker."

¹ See the whole record in *Fœdera* (Record edition), ii. 876. Besides all manner of attestations and certificates, the notary particularly identifies the record as having the great seal in green wax appended to it by ribbons partly green and partly yellow.

* *Fœdera* (Record edition), ii. 888.

sions among the disinherited lords themselves, owing to disappointed expectations and unexpected directions taken in the awarding of the territories ever changing hands. Thus the English Beaumont goes in discontent to his Castle of Dundarg, on a rock on the coast of Buchan, and holds it for family reasons against Baliol's party while it is besieged by Mowbray, who afterwards, aggrieved by his usage in the distribution of prizes, joins the national party in Scotland. Throughout the whole confusion of contest for personal interests, this national party—the middle class and general population of Scotland in fact—were the real substantial power available for fighting purposes. If these at the beginning looked on the contest as turning on a mere question of succession to the throne and to certain baronies, later events showed them that what was at issue was the other and vital question of national independence or subjugation to England. Repeated aid to Baliol's cause came from England, and Edward himself invaded Scotland as far as Aberdeen, the people pursuing their old policy of scattering with their belongings as he approached. But he did not pursue this purpose with the earnestness of his grandfather, or his own in other contests. We can see, even in the confusion of this war in Scotland, the influence of another and grander field of enterprise having opened on the ambitious spirit of this young king.

There was now close intercourse between the national party in Scotland and the Court of Paris—a name conveying a more distinct impression than “the Court of France,” since a great part of present France, then distributed into secondary sovereignties, with no more than a feudal connection with the central government, pursued a separate policy, and in a great measure supported the English invasion there. The internal politics of France have a close connection at this period with the destinies of Scotland; and it may be well, for the sake of clearness, to recall the position of the influencing forces there, however familiar they may be to the reader.

When Louis X. died in 1328, he left daughters, but no son. The old code called the Salic law—which is now

supposed to have been intended for the internal regulation of some parts of Germany—was said to apply to the throne of France, so that no woman could reign there, and the daughters of King Louis were excluded. The uncle of King Louis, the second son of his grandfather Philip III., was Charles of Valois. He died just before the beginning of the century, leaving a son, Philip, who stepped into the throne without any opposition on behalf of the daughters of Louis, and thus, in the year 1328, founded the royal house of Valois. Isabel, the sister of Louis X., was married to Edward II. of England. In the exact rule of hereditary succession her claim would stand behind that of her brother's daughters, but the exclusion of female succession applied to her if it applied to them. It was whispered, however, that the exclusion of females was personal only in order that the throne of a warlike people should be filled by a male—it did not affect the right of priority when a male claimed it. This reasoning made Edward III. of England, the son of the late king's sister, a degree nearer to the throne than Philip, the son of the late king's uncle; and the reasoning had a tendency which inclined King Edward to give ear to it. The one thing needful to conclude the argument logically as well as practically was a sufficient force: with such an army as England alone could supply, the adventure would be imprudent. It was necessary to wait until some notable division of forces should arise out of the complicated relations between the Crown of France and the subordinate sovereignties. This opportunity arose, and made in France a considerable Plantagenet party, helping the English aspirants to the throne, down to the memorable expulsion set in motion by the Maid of Orleans.

In 1337 the diplomatic language of England no longer acknowledges "our beloved kinsman, Philip, King of France." He is changed into "Philip of Valois, conducting himself as King of France," just as at an earlier period "David, by the grace of God King of Scots," becomes "David de Bruce, commanding our enemies in Scotland." Even before this, the national party in Scotland had felt this counter-current setting in to relieve them of some of

the weight of the English power. King Edward, indeed, was in apprehension that France might anticipate him by sending a force into Scotland, and giving him work at home. At last, in the autumn of 1339, to the joy of the national party in Scotland, it became known that a force had set sail from England to invade France. Like the death of Edward I., here again was a turning-point in the chances for Scotland. Whether as the sole object of ambition to two such potent spirits as Edward III. and the Black Prince, Scotland could have held her own to the end, may be doubtful. It is certain that the struggle, if it lasted, must have been more critical and bloody even than we have found it. With the most accessible and valuable part of Scotland almost in his hands, King Edward must have been sorely tempted ere he followed a course that compelled him to loosen this hold—we may believe that his grandfather would have selected the nearer and more promising field of enterprise.

At this time, the broken-up adherents of the national party had so far concentrated as to be under general leadership. Their first head was Andrew Murray of Bothwell, the son of Wallace's favourite colleague. He was a tried warrior, and had a career second only to that of his old master, Bruce, in personal hardship and adventure. He was chosen regent soon after the battle of Duplin. In 1335 he gained a considerable battle at Culbleen, on the slopes of the higher Grampians, in the west of Aberdeenshire. The leader of his opponents was that Earl of Athole who has been spoken of as one of the great barons who really belonged by birth and education to England, though they had claims in Scotland. He met in the battle of Culbleen a heroic death; and the chronicler Wyntoun describes how, when deserted by the flight of his followers, he set his back to a rock, and said it should take flight as soon as he. Murray harassed King Edward in his march northwards in the following year. In 1328 he died, and the Steward of Scotland, then twenty-two years old, succeeded him as regent. There was then again gradually emerging out of the recent chaos a visible Scotland to be governed. The Steward's high

position, if not his talent, gave him command ; for he had been the parliamentary heir of the crown, and would have worn it but for the birth of the nearer heir.

Early in the year 1339 Edward Baliol left Scotland—a token that the national party had made such head as to render his living there uncomfortable. He became a hanger-on at the Court of England, where he must have been a costly guest, if we are to judge from the many warrants preserved among the English records for the payment of his debts and the maintenance of his establishment. It was a further token of progress that in May 1341 King David returned from France with his queen, Johanna of England. He was but seventeen years old, yet the Regent appears to have given over to him the government.

Perhaps the best measure of the very gradual restoration of the country to itself is in the events connected with the possession of the strongholds. In the year 1337 several fortresses in the north were recovered, such as Dunnottar and Kinneff, with Falkland, in Fife. A much more important achievement was the taking, in the same year, of the Castle of Bothwell, on the Clyde. We can see from the character of the fragments still remaining that it must have been a strong fortress, then recently built after the new system of fortification. Its capture had a significance, from its place in the centre of one of the most fruitful districts of the new dominions of the King of England. On the opposite side of these dominions, and in a district still richer, stood one great fortress which had not yet fallen to the English—Dunbar. It was determined that a mighty effort should be made to take it, and siege was laid to it by a large force under the Earl of Salisbury in 1339. The governor, the Earl of March, was absent ; but his wife, a daughter of the favourite hero Randolph, immortalised herself by the resolute and indefatigable resistance headed by her. She is known in history and tradition as Black Agnes of Dunbar, a nickname given to her, as it is said, from her swarthy complexion. Helped from the sea, the fortress, under its “she-captain,” held out so stoutly, that Salisbury, with intense reluctance, withdrew his force.

In 1339, Perth, Cupar, and all the important strengths north of the Forth, were in Scots hands. Before the end of the same year the English suffered a more serious loss in Stirling, so that the Scots commanded the highway into the dominions which had been made over to England. Edinburgh Castle was recovered in 1341, and, scarcely of less importance, Roxburgh in 1342.

This last achievement connects itself with some incidents, which tell us all too distinctly of the mischief which the recent nature of the war was doing to the Scots character. Down to the death of Alexander III. there had been a long peace, and a country consolidating and prospering. After that came a great national war, full of hardships and miseries, but healthy in its influence on the national character. But now for some years the struggle with the invader had been mixed up with a civil war, in which Scot fought with Scot from personal or mercenary motives. Hence began a system of internal enmity, in which quarrels and legacies of vengeance passed from generation to generation, becoming fruitful in events which threw deep scandal on the national character. The earliest of these is only too characteristic of the many that followed. The hero of the capture of Roxburgh was Sir Alexander Ramsay of Dalwolyse, or Dalhousie; as a reward for this service he was appointed Sheriff of Teviotdale. There was another hero of the war, however, who counted that the sheriffship belonged, or should belong, to himself: this was Sir William Douglas, called the Knight of Liddesdale. He was one of the most audacious and successful leaders in the guerilla war of his day. He was chivalrous, too, in his bearing, and earned the applauding title of the Flower of Chivalry. His conduct on this occasion was a poor justification of the title. Coming from his Castle of Hermitage, which he had taken from the English and kept, he seized the sheriff while, as it is said, he was transacting the business of his office, and dragged him to Hermitage, where he thrust him into a vault and left him to die of starvation.¹ By this act

¹ The author of the *Scalacronica* says that Ramsay's death was a

Douglas gained what he wanted—the murdered man's office—and became governor of Roxburgh Castle. Afterwards a prisoner in England, he became mixed up with transactions giving grounds for inevitable suspicions that he was ready to betray the national party to King Edward. While he was yet a captive, David de Berkeley was murdered in Aberdeen; and it stands charged against Douglas in the chronicles that he hired the murderers, in revenge for a family injury.¹ He fulfilled the proverbial fate of the bloody and deceitful man. He had in some of his acts given deadly umbrage to his kinsman, William, Lord Douglas, at whose baptism he had stood as sponsor, and this godson murdered him as he was hunting in Ettrick Forest.²

King Edward's foreign war compelled him to submit to several truces with the Scots. These were not easily kept. It was not as of old, when crossing the border broke the truce. The southern districts of the country were half ruled by England, half by Scotland. The truces required that the Scots should abstain from molesting, not only the inhabitants of England, but the King of England's subjects in Scotland. But the very possession by the Scots of certain strongholds within the boundaries occupied by these subjects was in itself a waging of war; and as the national party waxed stronger they were not content to restrain the war within their own country, but recommenced the old raids across the border when Edward was with his army in France. As Shakespeare puts it, in the words of Henry V.—

“ The Scot,
Who hath been still a giddy neighbour to us.
For you shall read that my great-grandfather
Never went with his forces into France
But that the Scot, in his unfurnished kingdom,
Came pouring, like the tide into a breach,
With ample brim and fulness of his force,

judgment on him for taking Roxburgh on Easter Day, “at the very hour of the resurrection.”—See the abstract of the lost passages in Leland, i. 558.

¹ Scotchchron., xiv. 7.

² Ibid., xiv. 8.

Galling the gleanèd land with hot essays,
 Girding with grievous siege castles and towers,
 That England, being empty of defence,
 Hath shook and trembled at th' ill neighbourhood."

It appears to have been by desire of the French Court, and in pursuance of the alliance with France, that a serious invasion of England was at last projected. King Edward was busy with the siege of Calais in 1346, when a large Scots force assembled at Perth and marched southwards. They were under the command of King David, then twenty-two years old. He had been educated in a bad warlike school for effective service in Scots warfare. Feats of arms which had nothing to recommend them but their dashing character, headlong acts of audacity done in the spirit of gambling with the most momentous interests, had become fashionable among the chivalry of Europe, and especially in France. It was more to the spirit of rash adventure than to deficiency of prowess or courage that France owed most of her disasters; and her ally seemed to participate in the same spirit, to be led to like results.

The array of the north of England was called out under the authority of the Archbishop of York. Again the force organised was conspicuous for the number of clergy embodied in it, but this time they were in better hands than on the fatal day of the Chapter of Mitton, for the archbishop had two warlike assistants, Henry Percy and Ralph Neville. The Scots army reached the neighbourhood of Durham, where events showed that the organisation for intelligence was signally imperfect. The Knight of Liddesdale, on a foraging party, found himself face to face with the English army. The party fled, much diminished by slaughter, to the protection of their own lines. They brought their pursuers with them, and thus the Scots army were aware of the presence of the enemy in that very discouraging shape—the reception of a scattered body of fugitives. On the 17th of October 1346 the two armies fought. For the second time at least the Scots suffered terribly from that scourge for which they were unprepared—the English archers. To charge them in flank with a

party of horse, as at Bannockburn, was the remedy. It was suggested by one of the commanders, but the suggestion was useless, as the means had not been provided, and could not be improvised. It was a complete victory to England; and what crowned the calamity for Scotland, King David was carried off a prisoner. The Steward and the Earl of March, who were next in command, drew away the remnant of the army. Froissart threw a romantic interest over this English triumph, by a story that the victorious troops were led by that gentle queen, Philippa, who interceded for the burgesses of Calais; but this has not the confirmation which so remarkable an incident would certainly have had from native authors.

This victory is connected with other legends and reminiscences, which show the importance given to it in England. It was more than a mere victory by human prowess; the intervention of the Deity was clearly visible in it. An old memorial, which relates the legends of its day, and describes some trophies of the victory, preserved at Durham, tells how, on the night before the battle, there did appear to John Fossour, then prior of the Abbey of Durham, a vision commanding him to take the holy corporax cloth wherewith St Cuthbert did cover the chalice when he used to say mass, and stick it on a spear-point as a banner, wherewith he was to take up his stand on the Red Hills, and there abide until the battle that was to be should be over. The prior gave full obedience to this injunction, "taking the same for a revelation of God's grace and mercy through the mediation of holy St Cuthbert." Standing on the Red Hills with his monks around him, all prostrate in prayer, there came crowds of the Scots running towards them, who pressed on them with evil intent, but had no power to commit violence on holy persons so occupied and protected. They witnessed, ere the battle was over, "many conflicts and warlike exploits;" but of these they give no account, deeming them a secondary matter of mere detail when weighed with the preparations for securing victory made by themselves.

The loss to the Scots is described as the capture of their king, "and with him were taken four earls, two lords,

the Archbishop of St Andrews, one other bishop, one knight, and many others." Among the slain, besides "many lords and Scotsmen, to the number of, one and other, fifteen thousand," are included that mystical body, "seven earls of Scotland."

The abbot has another loss to record, quite as great in his eyes—ininitely greater in its gain to the patrimony of St Cuthbert: this was the Black Rood of Scotland, so important as a national palladium that, after its removal by Edward I., it had been restored to Scotland by treaty. It was kept, as we are told, in Durham Abbey, on the pillar next St Cuthbert's shrine in the south aisle. The national banner of Scotland, and several leaders' pennons, were a fitting accompaniment to this prize.

The importance of this battle is shown in the solemnities with which it was commemorated. The prior caused make a goodly and sumptuous banner, with pipes or rings of silver, and various costly decorations. The corporax cloth was let into the centre of this banner, which was kept in a chest in the "Ferretorie," to be carried in the abbey on festival days, and especially to be displayed in battle. A cross was erected on the place where the monks assembled: a more gorgeous cross was erected on the field of battle by Sir Ralph Neville—hence the field afterwards obtained its name. It stood until the year 1589, when it was destroyed, apparently by some zealous reformers.¹

¹ "An antient memoriall collected forth of the best antiquaries concerning the battell at Durham in John Fossour tyme," printed in the 'Antiquities of the Abbey and Cathedral Church of Durham,' and more accurately in the 'Rites of Durham,' by the Surtees Society. The conclusion shows that the author of the memorial was alive at the time of the destruction of the cross: "which so did there stande and remayne most notorious to all passingers till of laite, in the yeare of our Lord God 1589, in the nighte tyme, the same was broken doune and defaced by some lewde and contemptuous wicked persons, thereunto encouraged as it seemed by some who loveth Christe the worse for the crosse sake, as utterly and spitefully despising all auncient ceremonies and monuments." The memorialist describes the cross with "three steps aboute yt every way, four squared to the sockett that the stalk of the cross did stand in, which sockett was mayd fast to a four squared brod stave,"—and so on, with a minuteness that becomes tiresome.

King David was taken to the Tower of London with a train of captives. We find in the English writs of the day provision made for the detention of the bulk of these as prisoners of war waiting for ransom. These are spoken of as Scots; but two of high rank were reserved for punishment as traitors—the Earls of Menteith and Fife. It was charged against them that they had sworn allegiance to Edward, King of Scotland, holding that fief as vassal to the King of England—a specialty repeated, as usual, at every turn of the proceedings against them. These were peculiar—a sort of compromise between the trial of an English subject and the condemnation of an alien captive, like the proceedings against Wallace. A commission was appointed for their trial, but the sentence to be pronounced on them was sent from Calais, as adjusted there by the king and his council. The sentence was death in the cruel manner of the English treason law; on Menteith it was executed, but Fife was spared.¹

The English army crossed the border, and their success gave temporary animation to Edward Baliol, who helped them. He held the Castle of Caerlaverock, memorable for its siege by Edward I. Roxburgh and Hermitage were retaken; and England recovered for the time a hold on Tweeddale, Teviotdale, Ettrick Forest, Annandale, and Galloway—fully half of the district made over to Edward III. by Baliol.² The Steward now again became regent; and it says much for the constitutional spirit of the times that it seems never to have been in his view, or that of his supporters, that he should be made king, though many

¹ *Fœdera* (Record edition), iii. 95, 108.

² *Scotichron.*, xiv. 5. Here Bower says the English marches were at Cockburnspath and Soutra at one end, and at Karlynlippis and Crosscryne at the other. One of these points is easily identified with Carlops in the Pentlands, among the scenery of the 'Gentle Shepherd.' The site of the other point is doubtful. Macpherson, in his 'Geographical Illustrations of Scottish History,' generally a very satisfactory book of reference, deals with this question in an extremely equivocal way: "Crosscryne," he says, "is apparently a cross on the Cairn hills;" and on turning to the head Cairn hills to see where they are placed, the answer is, "*v.* Crosscryne." There is a spot called Corse Cryne near Biggar, in Lanarkshire.—*Stat. Ac.*, vi. 359.

good reasons besides his parliamentary title might have been found for such an arrangement. After the inroad following the battle of Neville's Cross, there comes a lull in the affairs of Scotland such as England would not be expected to permit after having dealt so heavy a blow. A truce was arranged with France, and included Scotland. It lasted by renewals down to the year 1354.

King David was conveyed through the city of London with great pomp and pageantry; there was on the part of the Government an abundant chivalrous display, and the great corporation was invited to show its splendours on the occasion. But afterwards the acquisition seems to have given more embarrassment than satisfaction to the English Government, heavily involved as it had become in Continental politics from Spain to Sweden. If there was glory to the Londoners in the possession of illustrious captives and refugees, it must have been well satisfied after the field of Poitiers. Besides many *grandees*, some of royal birth, they had three of kingly rank—John of France, David, and Edward Baliol. It was to the last of these only, however, that the title of king, or rather ex-king as it had then become, was conceded. The others were "John de Valois," or sometimes "our adversary of France," and "David de Bruce."

On the English state papers of the day there are traces of negotiations with King David, the purport of which is kept secret.¹ There are powers given for the ultimate release of the king on satisfactory conditions, but those conditions are not intrusted to writing. Negotiations of this kind always excite suspicion; and among the theories set afloat on this occasion, one is that David had listened to proposals for his release on the condition of acknowledging Lionel, the younger brother of the Black Prince, as heir of the crown of Scotland; but that no satisfactory assurances could be given by him that such an engagement would be fulfilled. The English Government might indeed by this time have known the futility of parchment stipulations for the annexation of Scotland, and that no

¹ *Secretæ Instructiones, Fœdera* (Record edition), iii. 242.

one had power to dispose of the liberties of the people. Their remedy for such a disposal of their allegiance would have been the simplest possible—the acknowledgment of the Steward as king, by a mere anticipation of what was to be on David's death. It is suggestive to note at this time a paper, which shows a sense of the spirit in which the Scots took all questions of government—that of retaining their ancient customs and liberties. A proclamation is issued, intimating that all the Scots who shall come to King Edward's peace and obedience shall enjoy the old laws, liberties, and customs enjoyed by their ancestors in the days of Alexander III.¹ It was now far too late in the day for such promises to have any effect—even if, coming from the King of England, they could ever have found reliance. It was in fact but a mimicry of those promises to the English people for the renewal of the charters—promises which never were kept when they could be broken.

The English Court at last found that the best they could make of their acquisition was a pecuniary speculation. There is a wearisome succession of treaties on this matter, in the course of which David was permitted to pay a visit to Scotland, giving hostages for his return. The ransom of David was at last adjusted at a hundred thousand merks, and the Estates of the Scots Parliament acknowledged this as a national debt. A nation's faith, however, was hard to bind in that age and long afterwards, and the elaborate mechanism adopted on this occasion affords a study in legal and diplomatic ingenuity. Each of the Estates—the Church, the Baronage, and the Burghage—grants a separate obligation, each binding on its own body at large, and especially on certain individual

¹ "In legibus, libertatibus, et liberis consuetudinibus, quibus ipsi et eorum antecessores, tempore celebris memoriæ Alexandri, quondam Regis Scotiæ, rationabiliter uti et gaudere consueverant, &c., manuteneri et nostro nomine prout justum fuerit conservari."—*Fœdera* (Record edition), iii. 237.

Afterwards, in 1356, a similar declaration is specially made to the inhabitants of Teviotdale, spoken of as giving loyal service against the king's enemies of Scotland.—*Ibid.*, 331.

members who become personally responsible.¹ These documents are full of oaths and promises; of special obligations to submit to all kinds of authorities, clerical and lay, that can extract the money from them, and to take advantage of no laws or powers by which they can exempt themselves. Great pains were taken to oblige the debtors not to seek any Papal exemption from their obligations, and to reject any such exemption if it should be issued; and that this was a real risk is shown by a little incident connected with the affair. France subscribed certain gold nobles to the ransom fund, under the condition that, should the Pope exempt Scotland from the debt, the money was to be spent on an invasion of England. The Papal Court, at all events, did not help in the payment. It was a special obligation on the churchmen that they should apply for a Papal confirmation of the debt as binding on the Church, but their request to be subject to this obligation was refused. But the best security that England obtained was real and personal. Several of the chief Scots lords were named, including the Steward—three of whom must ever reside in England as hostages for the payment of the debt—along with twenty men of noble houses. Under these conditions King David returned to Scotland in the autumn of 1357.²

Throughout the tedious negotiations for his ransom, and even after he returned and reigned, he was ever called in the English documents David de Bruce, while Edward Baliol was called King of Scots, and in that capacity was heard as a party in King Edward's negotiations with "those of Scotland." Before the adjustment of David's release was accomplished, it seems to have occurred to Edward and his advisers that something might be made of Edward Baliol. He was absolutely in their hands, and must do for his very maintenance what they might please to exact. Accordingly, in all due form they extracted

¹ The list of persons responsible for the burghs as given in the *Fœdera* may be compared with the many Norman-sounding names we have come across in dealing with the nobility of Scotland.

² See *Fœdera* (Record edition), iii. 365 *et seq.*

from him, in 1356, an absolute gift and surrender of his crown and kingdom of Scotland to King Edward and his heirs, and livery and seisin of the transference were taken in all proper form. It is part of the spirit and practice of feudal conveyancing to set forth the consideration for any transference of power or property—absolute gifts for no reason were discountenanced. Edward Baliol gave as his reason for the transference, the turbulent nature of his Scots subjects, and their rebellious practices against, not only himself, but his Lord Superior. In a separate indenture Edward of England acknowledged the donation, and granted to the donor of it an annual pension of two thousand pounds, to be paid at stated quarterly terms. The bundle of carefully-drafted papers in which the stages of the transaction are recorded, had little chance of producing any immediate effect on the fief so given up to its lord superior. These parchments, however, might come to be of use at some after-time to the crown of England, and it was as well to have them, as they could be easily got.¹

Baliol was the more thoroughly at the mercy of the King of England, that his estates in France had been forfeited as those of an enemy—a natural effect of the alliance offensive and defensive between France and Scotland.² Crippled and endangered as she was, France endeavoured to help her ally. Considerable sums of money were sent to assist the Scots. What was less needed, yet showed goodwill, a small body of men-at-arms was sent over in 1355 under the command of the Sieur Eugene de Garancier. They partook in the most important warlike affair undertaken by the Scots during their king's captivity—an attempt to recover Berwick. The town was taken and pillaged, but the castle held out and

¹ See them at length in the *Fœdera* (Record edition), iii. 317 *et seq*. The designations of the parties in the preambles of the writs may be thought interesting; they are, "Tresexcellenz et Puissantz Princes Monsieur Edward, par le grace de Dieu Roi d'Engleterre et de France, d'une part, et Monsieur Edward de Baliol, Roi d'Escoce, d'autre part."

² Michel, *Les Ecossais en France*, i. 66.

gave protection to many of the citizens; nor could the town be retained while such a neighbour remained with the enemy. Edward himself, just returned from France, appeared before it with such a force that there was no alternative but capitulation. The town was taken by the Scots in November 1355, and lost in the following January. In that short period the French force, which had done good service, was allowed—nay, it would appear, pressed—to depart. The Scots were more in need of money than of men. The French were luxurious and troublesome guests, and the Scots felt ashamed of the sordid poverty in which a long war for existence involved them. Having brought a fine army into Scotland—the chronicles say it was eighty thousand strong—King Edward was determined to do more than merely rescue Berwick. He marched onwards to the Forth. The old Scots policy for exhausting an invasion was followed up very successfully. He had no opportunity of fighting a battle, and found the country empty both of men and food. He had commissioned a fleet to import a commissariat, but the vessels were dispersed by the winter storms. It was necessary to retreat and disperse the army—a course which such a king as Edward, after the mighty preparations he had made, must have taken with extreme bitterness of disappointment. It was, perhaps, this feeling diffused through the army that rendered it extremely destructive. It left marks and recollections very inimical to the policy of King Edward, whose object was to let the Scots feel that he would make a good ruler over them. The invasion was specially noted by the mischief done to the religious houses, especially to the church of the Franciscans at Haddington, which had a place in the admiration of the country as “the Lamp of the Lothians.” This was a scandal which his grandfather would have carefully avoided.

These devastations had the effect of reversing the moral conditions of the quarrel between the two countries. From the Battle of the Standard down to that of Neville’s Cross, the English monks who chronicled events had been able to represent the cause of Scotland against England as that

of the unbeliever against the Church, especially manifested in the destruction of holy things, and the slaying of holy men within the sanctified territory of St Cuthbert. This spiritual weapon had now changed hands. The chronicles are full of the impious barbarities of the English soldiers and sailors, and the awful judgments by which they were avenged. Walter Bowmaker, for instance, narrates an incident told to him by a good and very trustworthy friend who was present and saw it happen, being twelve years old at the time. Certain English sailors invaded the church of Whitekirk, on the coast of East Lothian, where was a shrine of the Virgin endowed with costly gems. One man snatched a ring from the Virgin's image so rudely as to mutilate the finger it belonged to, when forthwith a crucifix fell from above and dashed his brains out. It was recorded that a ship laden with the spoil of this and other sacred places was attacked by a vehement tempest and foundered off Tynemouth.¹

Though the English expedition fell far short of any success adequate to its pretensions, yet it appears to have regained a great part of that southern district which Baliol had presented to the King of England, which had been really brought under subjection, but which had been gradually absorbed again into Scotland. We know that a great part of this country near the English border remained for many years in peaceable possession of the English crown and subject to English administration, exercised, according to proclamation, in conformity with the old customs of Scotland. In the succession of truces

¹ It was probably on account of the particular form in which this shrine displayed its miraculous powers that the celebrated Æneas Sylvius, Pope Pius II., thought it would be a suitable recipient for his thankfulness on the occasion of safely landing in Scotland after a stormy perilous voyage. He made a pilgrimage accordingly, from which he frankly admits that he had anything but benefit in the flesh, whatever else he gained. In fact, the walking ten miles thither and ten miles back barefooted on the frozen ground seems to have given him a chronic rheumatism, which held by him to the end of his days, and even while he sat in St Peter's chair.—Campani, *Vita Pii II.* The editor of the *Statuta Ecclesiæ* identifies the "Phanus" visited by him as Whitekirk.

and the complicated negotiations about the release of the king and the payment of his ransom money, Scotland had to let these acquisitions alone. An Act of the Scots Parliament of the year 1367 takes notice of these districts as inhabited by persons at the peace of the King of England, and makes provision for preserving a record of the succession to estates within them held to belong to the subjects of the crown of Scotland who cannot enter on possession of them.¹

The return of their king after his long exile did not happen, in this instance, to be among the events in which a people acknowledge themselves as blessed by a long-desired and long-deferred boon. After the splendours of London, where crowds of illustrious persons assembled either as captives or guests, he seems to have felt the sordidness of his position in his own kingdom as intolerable. He went back to England, over and over again, though each visit put him in danger of detention there, if on no other ground, as an additional pledge for the payment of his ransom money. This was a heavy burden on all ranks of people in Scotland, and, for all that vigorous efforts were made to complete it, it fell into arrears. Every visit required stringent engagements for his restoration to his people, yet he could not keep himself among them. His domestic life did not commend him to their affection; it became matter of public talk, from the mysterious murder of a female companion who had accompanied him from England.

In 1362 the queen, Johanna, Edward's sister, died childless. She seems to have been a faithful helpmate to her husband through all his changes of fortune. She came with him from France. We find her afterwards obtaining a licence to join him in his captivity in England, and she was included in the passports to revisit England after his release. Her brother's policy did not permit him on these occasions to give her the title of queen, and he addresses her as our dear sister Johanna.

Next year David married a certain "Margaret Logie."

¹ Act. Parl., i. (Dav. II.) 145.

She was a widow, and Logie was the name of her husband. Her own family name is unknown, and in traditional history she is treated as a person of obscure birth, unfit to match with a king. Genealogists have found reason to believe that she was neither beautiful nor very young, while the affair is treated in the histories as an entire surrender to youthful attractions—a love-match, as it would be termed, if there had been more romance in it. Whatever may have been the motive for the union, it seems to have been an imprudent, indeed a dangerous act. Though King Edward III. was no friend of Scotland, it made a sort of standard of equality that his sister should be queen; and putting an obscure person in her place seemed to be courting the humiliation to which he would fain reduce the King of Scots. The king's partiality for England, and doubts and suspicions about his doings there, had spread an irritation and restlessness which almost broke into insurrection.

The Steward was the parliamentary heir to the throne; and he and his many adherents could not look with much satisfaction to the marriage of a man not yet forty years of age, whose offspring might supersede him; and if they could not graciously object to such a step in itself, such considerations would not tend to reconcile them to offensive specialties in his method of taking it. We find the king taking his new wife in his journeys to England, where, for aught that the credentials obtained from the English Court show, she was as highly honoured as her predecessor of the English blood-royal. They went together on a pious pilgrimage to the tomb of St Thomas à Becket. The end of the affair is mysterious. The chronicles say that she was divorced from the king, and that she got a hearing against the decree at the Court of Rome; but there is no full evidence as to the ground on which the process of divorce was raised against her, or the method in which she made her appeal, although it is believed that the Papal Court of Avignon reversed whatever had been decided to her prejudice in Scotland.¹

¹ She "appealed to the Roman Court at Avignon, when a keen and

After the release of King David the truces continued to be renewed, and there was little show of war on either side. Yet the independence of Scotland was then in extreme danger. The raising of the redemption money payable to England was matter of great difficulty : it fell, in fact, into arrears, and then, after the manner of usurers, there was a heavy penal percentage on the original obligation. The communications on this matter between the two Courts have less the appearance of diplomacy than of a private correspondence, in which a hard creditor pushes to the utmost a debtor extremely anxious honestly to pay his debts, and extremely anxious to avoid both the scandal and the penal results of unpunctuality. Then it was among the anxieties and suspicions of the patriotic, that whenever the creditor showed leniency, he had something more dangerous in view than the exaction of money. It was believed that there were plans for the annexation of Scotland to England, and that the king was a party to them. The chroniclers tell us how all suspicions were confirmed. At a parliament held at Scone in 1363, the king suggested to the Estates that they should select as his successor one of the sons of the King of England, especially recommending to them Prince Lionel; they might be assured that if they did that, King Edward would, for himself and his representatives, abandon all claims inconsistent with the independent sovereignty of the country. The Estates, according to the chronicles, at once without hesitating, by a sort of acclamation, rejected the proposal as inadmissible; no, they would have no Englishman to reign over them.¹ The records of this parliament, published in recent times, not only attest the rejection of the proposition when proffered by England,

protracted litigation ensued, productive of much public agitation and commotion, the issue of which appears to have been a reversal and actual standing of the marriage, with the high indignation of the Papal See, that exposed Scotland to the horrors of an interdict and excommunication by his Holiness."—Riddell, *Inquiry into the Law and Practice of Scottish Peerages*, 982.

¹ "Cui breviter et sine ulteriori deliberatione aut retractione, responsum fuit per universaliter singulos, et singulariter universos de

but even through their technicalities bear the impress that the rejection was made impulsively and disdainfully.¹ In the record of a parliament three years later, reference is made without entering into detail to four propositions: homage, the succession, the dismemberment of the kingdom, and the subsidising of an armed force to England. It was resolved that all but the last should be flung back as intolerable, and not to be admitted to deliberation.²

The English state papers reveal to us a transaction occurring between these two parliaments which, had it been known in Scotland, would have confirmed the worst fears of the country. It is a memorandum of an arrangement or private treaty between the King of England and the King of Scotland. Its purport is, that the King of England for the time being should succeed to the sovereignty of Scotland on King David's death. Scotland is neither to be a fief of England nor to be absorbed in that kingdom; it is to be entirely separate and independent, the head of the house of Plantagenet being separately crowned and inducted as King of Scotland. The arrangements for preserving the independence of the country might merit detailed examination, if the conditions had ever come up for practical adoption, or indeed been publicly known. They are the mere purport of a secret conference, the evidence of which might have been obliterated by the voracity of a rat or the many perils to which such parchments are liable. It stands alone as a mere

tribus statibus, NUNQUAM SE VELLE CONSENTIRE ANGLICUM SUPER SE REGNARE."—*Scotichron.*, xiv. 25. Wyntoun has it—

"Thare til the States of his land,
That in consal ware sittand,
He movit and said he wald that ane
Of the Kyng Edwardys sonnys war tane
To be kyng into his sted
Of Scotland, after that he ware dede.
Til that said all his liegis, Nay :
Na thai consent wald be na way
That any Inglismannes son
In-to that honour suld be dunc."—viii. 45.

¹ "Nullo modo voluerunt concedere nec eis aliququaliter assentire."
—*Act. Parl.*, i. (Dav. II.) 135.

² "Finaliter refutatis primus tribus punctis tanquam intolerabilibus et non admissibilibus deliberatum."—*Ibid.*, 139.

jotting or memorandum, on which nothing was done. To have been feudally complete it must have been followed by a heap of ceremonies and notarial instruments. It is distinguished from its companion parchments by a special phraseology—the party to it is, for once, David, by the grace of God King of Scotland. It would have been illogical for one who was not a king to give away a kingdom. That the project was speedily abandoned is shown by the immediate resumption of the old form by which the King of Scots is recognised in the *Fœdera*—David de Bruce.¹ Though this affair may not have been known in Scotland, and though peace continued, yet there were abundant elements of apprehension. We can easily believe, therefore, that there was cordial satisfaction in the country when, in 1369, King Edward was again called abroad, and anxiously negotiated a fourteen years' truce with Scotland.

The parliaments held after the release of King David showed a sort of surly resoluteness in checking abuses and stretches of the prerogative. There was a general admonitory resolution demanding that strict justice should be administered between man and man in the courts of law, and that favour should be shown to no one. It was enacted that writs issuing from the King's Chapel in Chancery were not to be recalled—that is to say, that actions at law once begun should proceed before the proper tribunals in common form, and should not be stopped at the instance of any powerful person. Royal remissions for damage or injury done were to be null, unless the persons injured were satisfied. It was enacted that no justiciar, sheriff, or other ministerial officer of the crown, should execute any warrant, be it under the great seal, the privy seal, or the signet, if it were contrary to statute or common form of law. Beyond the established feudal dues nothing was to be taken from the community for the king's use without prompt payment. Horses were not to be sent to graze on peasants' lands; and those who

¹ "Super nomine regnorum Angliæ et Scotiæ colloquium et tractatus."—*Fœdera* (Record edition). iii. 715, 723.

infringed this rule were to be liable to penalties according to the amount of damage done and their station in life. Complaint was made that the burdens of the country were aggravated by the gift of royal estates and rights of feudal dues to favoured persons. These were to be resumed, so that the property of the crown should be restored to its original state at the time of King Robert's accession ;—if it was thought fit to reward any one for meritorious service, let it be done by advice of the council out of the movable property of the crown. The liberal supplies granted to the crown were to be used for the special purposes for which they were raised, such as the payment of the king's ransom, and not diverted to other purposes. This, whatever effect it had in practice, announces the principle of the double parliamentary control of the present day—a vote for the appropriation as well as for the granting of the supplies. It has been noticed that in the collections of the Scots Acts made in the early part of the seventeenth century, some of these enactments are omitted, although they existed in the manuscripts from which the collections must have been made.¹ This is in character with a propensity at that period to overlook whatever bore testimony, during earlier times, to the freedom of the people and the control on the royal prerogative in Scotland.

The only active affair in which King David became concerned after the inroad in which he was made captive, was an expedition to bring the outlying districts of the Highlands and the Isles under complete subjection, and especially to make them contribute to the taxation of the country. John of the Isles met him at Inverness, promising submission and everything that was desired—an engagement of the value of which we shall have occasion to take account. This was in the year 1369. The king was then close to his end ; he died on the 22d of February 1370. Nominally his reign was long—it had lasted for forty-two years—yet at his death he was but forty-seven years old.

¹ Preface to the Scots Acts.

CHAPTER XXVI.

NARRATIVE TO THE DEATH OF ROBERT III.

ACCESSION OF ROBERT THE HIGH STEWARD—ADJUSTMENT OF THE SUCCESSION—HIS DYNASTY CALLED THE HOUSE OF STEWART—GENEALOGICAL MYSTERIES—TROUBLES IN ENGLAND—SCOTLAND'S PROFIT IN TRANQUILLITY—RENEWAL OF THE LEAGUE WITH FRANCE—IDENTITY OF THE INTERESTS OF THE TWO COUNTRIES—A BODY OF FRENCH KNIGHTS COME TO SCOTLAND—WHAT THEY SAW THERE—A LARGER BODY FROM FRANCE, BROUGHT BY THE ADMIRAL JOHN DE VIENNE—DIFFERENCE BETWEEN FRENCH AND SCOTS NOTIONS OF WAR—DIFFERENCE BETWEEN THEIR NOTIONS OF CIVIL RIGHTS—ANGRY RETURN OF THE FRENCH—THEIR GIFT OF ARMS TO THE SCOTS—DETERMINATION TO INVADE ENGLAND—A DOUBLE INVASION BY THE EAST AND THE WEST—THE PERCYS—DOUGLAS—PASSAGE AT ARMS—THE BATTLE OF OTTERBURN—ITS FAME AND CHARACTERISTICS—DEATH OF KING ROBERT—HIS SON SUCCEEDS—HIS NAME CHANGED FROM JOHN TO ROBERT, WITH THE REASON—BATTLE BY TWO BODIES OF HIGHLANDERS ON THE NORTH INCH OF PERTH—DIFFICULTY IN EXPLAINING IT—INTERNAL EFFECTS OF THE LONG CONTEST WITH ENGLAND—AN ENGLISH INVASION—BATTLE OF HOMILDON—RICHARD II. OF ENGLAND, AND THE QUESTION OF HIS SEEKING REFUGE IN SCOTLAND—DEATH OF ROTHESAY, THE KING'S ELDEST SON—SUSPICIONS OF FOUL PLAY—HIS OTHER SON, JAMES, TAKEN BY AN ENGLISH FORCE ON HIS WAY TO FRANCE—ASCENDANCY OF ALBANY—DEATH OF KING ROBERT III.

ROBERT the High Steward succeeded his cousin, and was with all ceremony crowned and anointed at Scone. There is a whisper in the chronicles that the head of the house of Douglas intended to dispute the throne with him. The genealogical conditions which probably created the rumour will come out in connection with subsequent events. Meanwhile no sayings or doings on the part of the house of Douglas took such a shape as to leave any disturbing

mark on the peace of the country: in fact, the succession of a son to a father could not pass more quietly than this change of dynasty. Upwards of fifty years had passed since the parliamentary declaration of his title at the suggestion of his illustrious uncle. The rule of David was almost that of an interloper; and though his reign was long, there was so little of it real that its continuance hardly modified its provisional character. The Steward, indeed, did little more when he was crowned than continue the governing duties which had been but occasionally interrupted. The name of his family was Allan, or Fitz Allan, but it had become habitual to call them by the name of the feudal office held by them in Scotland, and hence Robert II. was the first of the Steward, or, as it came to be written, the Stewart dynasty.

They obtained their feudal influence through the office enjoyed by their ancestors at the Court of Scotland—the office of Steward. We have already seen a family named Durward, so powerful as to be in a condition to plot for sovereignty in Scotland. This family is supposed to have also had its name from a hereditary office still more humble, according to modern ideas, than that of the Steward—the Door-ward, doorkeeper, or porter; but all who had established places in the royal residence acquired political power and high rank—a political phenomenon signally exemplified in the growth of mayors of the palace in France.¹ In their rise these two families are notable instances of this tendency of the feudal system to give political influence to those who were near the throne, even when their functions, nominally at least, partook of a servile character.

¹ According to a legend put in rhyme by Wyntoun, the origin of the Comyn family was similar to that of the Durwards. The first of the family came from Normandy to the Court of King William, and

“ He made hym, syn he was stark and stour,
 Keparé of hys chawmbyre dure;
 Na langage couth he spek clerly
 Bot hys awyn langage of Normandy;
 Nevertheles yhit quhen he
 Oppynynd the dure til mak entrè,
 ‘Cum in, cum in,’ he wald say,
 As he herd othir about hym say.”

—Cronykil, viii. 6.

Among such Acts of Parliament during this reign as have been preserved to us, there are two regulating the succession to the crown with such pomp and emphasis as to show that there were reasons why the Estates should take a decisive tone. One passed at the opening of the reign, in the year 1371, enacts that the king's eldest son, John, shall succeed him. Another, passed two years later, names successively the sons of the king by his first wife, each to succeed on the failure of his elder brother, and the male children of that elder brother. If the sons of the first marriage provide no successor to the crown, then those of the second are to come in their order.¹ This parliamentary "entail of the crown," as it is sometimes termed, suggests a word of explanation about the king's domestic history.

In early life he had married Elizabeth, a daughter of Sir Adam Mure of Rowallan. By her he had four sons and six daughters. The daughters strengthened the royal house by marriages with the most powerful families of the country: one of them became the wife of the Lord of Islay and the Isles—a union, no doubt, intended to secure the allegiance of these half-independent regions. By his second wife, Euphemia Ross, the king had two sons and four daughters, who, like their sisters, made influential alliances by marriage. Thus he was thoroughly a patriarch king, with an offspring giving successive heirs on the failure of older lines in such abundance as might seem for ever to save Scotland from the chance of a disputed succession such as was about to desolate England.

But there was a reason for the parliamentary settlement of the crown, in the ecclesiastical or canon law, by which the children of Elizabeth Mure were held to be illegitimate. Under that law they were not born in wedlock, and under that law the parents could not have been wedded without a dispensation. That those disqualifications have been conclusively proved by adepts in the canon law, only shows historically that, in the fourteenth century, the Church had not been powerful enough to en-

¹ Act Parl., Roll, ii. 182, 185.

force its rules upon the state. Nothing they can say can undo the fact, that Elizabeth Mure was the mother of a race of kings who actually reigned. Still, conformity with the ecclesiastical rules was so far by degrees prevailing, that, sanctioned as the succession of the Stewarts was by a parliamentary title, the doubts about the offspring of Elizabeth Mure seemed to hover round the throne. It was connected with the tragedy of King James I.'s death, and came out in times much later in a shape rather ludicrous than tragic.¹

The marriage law was distinctly a field of contest between the two powers, the civil and the ecclesiastical; for, as this instance peculiarly exemplified, the Church was fighting neither for religion nor decorum, but for power. It was not only determining that its own ceremonies should be essential to a valid union, but that it should have in a great measure the right to decide who could and who could not be united. The forbidden degrees were extended to cousinhood, called the second degree of consanguinity, and protracted to the grandchildren of cousins-german. In the application of the prohibition to affinity, those unions which neither at that time, nor in later times, were allowed the privilege of marriage, were yet sufficient

¹ "One would have thought all dangers to the Stewarts from this source would have been at an end by the seventeenth century. But as late as 1630, William, Earl of Menteith, lineal heir of the second family, procured himself to be served heir to David, Earl of Strathern, eldest son of Euphemia Ross; and at the same time, probably rather from foolish vanity than ambition, solemnly renounced his right to the crown of Scotland. Visionary as one would have supposed that right to be, the idea of it so alarmed Charles I. that he insisted on a reduction of the service, which was set aside on the notoriously false pretext that David, Earl of Strathern, died without issue. The Earl of Menteith was degraded from the important offices which he held,—of Justice-General, President of the Council, and Lord of Session; and the greatest anxiety was evinced by the king to efface all vestiges of evidence that the service had ever taken place."—The Lyon King-at-arms in 'Macmillan's Magazine' for June 1867, p. 109. The last conspicuous representative of Euphemia Ross and the legitimate race of Stewart was, oddly enough, Captain Barclay of Ury, illustrious a generation or two ago as a pugilist, a pedestrian, and an amateur driver of stage-coaches.

to bring the element of forbidden degree into the position of the erring parties. This we shall see strangely influencing the tragic events of Queen Mary's reign.¹

The question whether the Stewart line of sovereigns who succeeded each other after the first of the family should have been the sovereigns of Scotland, and in their later generation of England too, had been amply discussed, when a Papal dispensation for the marriage of Robert the Stewart with Elizabeth Mure was discovered. Even had this dispensation not professed to legitimate the offspring, the marriage of the parents alone sufficed to that end, but only if the parents could have legally married before the children were born. Here there was a nicety by which the adepts of the canon law could disqualify a race of sovereigns who had reigned and filled a large place in history. If the Pope had granted the dispensation before the children were born, they would have been legitimate, though the marriage itself was postponed. But as the parents were not in a position in which they could have lawfully married each other before their children were born, then were these children irretrievably illegitimate.²

¹ The limits are thus defined by an author very learned in the practice of this branch of law in Scotland: "By the canon law (different from the civil) the degrees of forbidden relationship were computed downwards, but in one line. A brother and sister were in the first degree—a cousin-german in the second—the children of the cousin-german in the third—and the grandchildren of the cousin-german in the fourth, when the prohibited degrees were legally SPENT and CEASED, without being protracted to the fifth, that is, to great-grandchildren of cousins-german, as the learned gentleman has represented."—*Stewartiana*, by John Riddell, 45. The last clause of the quotation refers to the cause of the words emphasised so severely. The definition is uttered in controversy, and hence it comes out with a sort of emphatic clearness, though from the pen of a wonderfully hazy and opaque writer.

² When, in 1789, the Bull of Dispensation said to have been granted was discovered by Andrew Stuart, the historian of the house of Stewart, there was a disposition among historical authors to consider the question at rest. But the Bull only served to move the combative spirit of the late John Riddell, perhaps the profoundest peerage and genealogy lawyer that Scotland has had the honour of producing. He was the terror of all worshipful houses, conscious of possible flaws of pedi-

The difficulties and calamities which thickened round the latter days of Edward III. made King Robert's reign peaceful and uneventful. Diplomatic phraseology shows that this came of necessity, not goodwill, and that the English Government would have disturbed Scotland if it could. There was a little harmless bickering about the old difficulty. In rendering the instalments of the ransom of King David, care was always taken to proclaim in full the dignities of the King of Scots. Though thus accompanied, the English exchequer did not disdain to accept of the money. In acknowledging the receipt of it, however, no other name was conceded to the monarch who had paid it but "Robert of Scotland." The Scots expostulated against this, but could not remedy it. The money had been in each instance rendered: they could not get it back, and must be content with the form in which their creditor made out his receipts.

At the beginning of the reign the league with France was renewed in strong terms. A solemn embassy was sent to Paris, one of the ambassadors being Sir Archibald Douglas, and another Walter Wardlaw, afterwards raised to the dignity of cardinal. We are told that he had taught philosophy with applause in the University of Paris.¹ The

gree glossed over by friendly historians. What may be called the text on which he lectured at length is,—“(1.) That Robert III. was born in incestuous concubinage—that status then legally applying before the Reformation,—however odd it may seem at present, to the offspring of individuals so situated as his father and mother; and (2.) That such being the fact, Robert III. in ordinary course could not be *legitimated* from the legal bar of *incest* by a *subsequent marriage upon a dispensation*, however now regular, between his parents.”—Riddell's *Stewartiana*, 2. Such conclusions, and the reasonings that lead to them, might have been put to use as a logical caricature of the doctrines about the divine right of legitimate succession much indulged in down to times within the memory of persons still living, and, by the way, devoted to the direct descendants of this same Elizabeth Mure. When the legitimists have rid themselves of the reigning members of the Stewart family, until they find the descendants of Euphemia Ross, they are ushered further back to find that Robert the Bruce superseded the legitimate race of Baliol, and might perhaps be called still further off the line of practical succession and actual history to the misty descent of the Comyns from Donald Bain.

¹ Michel, i. 71.

league or alliance bound the two countries to each other by very strong ties. Neither was to make war or peace with England without the assent of the other. When England attacked one of the allies, the other was bound to give it aid. The danger of possible interference by France in the internal affairs of Scotland seems then to have been anticipated; it was stipulated that in the case of a disputed succession France was not to interfere, but was to leave the settlement to the Scots Parliament.¹ A separate document, already mentioned, exists, in which the King of France engaged himself to give special aid. He promises a hundred thousand gold nobles as a contribution to the ransom money of King David, with the provision that if there should be a Papal dispensation of that debt the money is to be employed in making war on England. There is a promise to send equipments for a thousand Scots, and to send to Scotland a thousand men-at-arms of France.²

The death of Edward III. in 1377 made no immediate difference to Scotland. England was still in difficulties. They came less from foreign relations than from the insurrection of Wat Tyler and other home troubles. To Scotland it was enough that her enemy was crippled, and that the evil day when the attempts at annexation would be renewed was postponed. England desired a renewal of the fourteen years' truce, and so earnestly that, to promote the object, she was prepared to be indulgent about the settlement of the arrears of King David's ransom.

The truce could not prevent almost continual petty warfare on the borders. England, in fact, had left there an incitement to contention. It could not be that, while part of Scotland was held under English rule, the neighbouring Scots should abstain from harassing the invaders and pressing them out. They were, in fact, by slow degrees gaining back the conquered territory; and in doing so, they felt that they had only the local influences of England to resist; the central government was too seri-

¹ *Fœdera*, Scots Acts, i. 195.

² Unissued vol. of Records of the Parliament of Scotland, 122.

ously employed otherwise to strike them. So for instance, in the year 1385, we find an Act of Parliament for reorganising the administration of justice among the inhabitants of Teviotdale, who, having been at the peace of the King of England, had, through the exertions of William, Lord Douglas, been brought to the peace of the King of Scots.¹ At the conclusion of the truce in 1381, John of Gaunt marched to the border with a powerful army, but his professed object was to preserve peace and put a pressure on for the renewal of the truce. Soon afterwards this eminent person, needing refuge from his foes of England, found it in Scotland, where he was entertained with chivalrous munificence: this recalled the good old days when King Malcolm entertained the Aetheling and his sister.

At this time the interests of Scotland, and especially the question of future peace or war, were to a great extent in the hands of France. The identity of the interests of the two countries was becoming more visible, and their connection closer. In 1379, indeed, King Charles V. appointed a solemn embassy to Scotland, doubtless to keep the country right about its conduct on the conclusion of the truce. Owing, however, to some difficulties in which he got involved on his own side of the water, the appointed ambassador, the Lord of Bournezel, got no nearer to Scotland than the Dutch port of Helvoetsluys.² In 1383 the truce was readjusted between England and France, with the stipulation that Scotland might partake in it if she so willed. Ambassadors or messengers were sent to communicate with the Government of Scotland. They required to pass through England, and it was said that their letters of safe-conduct were delayed to let a blow be struck against the Scots before they had an opportunity of joining in the truce. At all events, after it was concluded the Earls of Northumberland and Nottingham suddenly and unexpectedly crossed the border with two

¹ Scots Acts, i. 188.

² For an account of the Continental side of the French intercourse with Scotland at this time, the Author refers to his work called 'The Scot Abroad,' i. 110 *et seq.*

thousand men-at-arms and six thousand bowmen, slaughtering and burning as far as Edinburgh. They had scarcely gone, when Scotland received an unexpected visit of a different kind. A body of distinguished knights in the service of France, some thirty in number, felt at a loss how to dispose of themselves in time of peace, and resolved to wander to some spot where they might find war. They knew that the truce had not been communicated to Scotland, and, putting to sea at Helvoetsluys, they landed at Montrose and found their way to Perth. They sent two of their number to Edinburgh to inform the Government of their arrival, and of their desire to find employment in fighting with the English. At the very same time the ambassadors sent to communicate the truce arrived there. It was accepted by the king, or the Government acting in his name; but, imbibed by the recent English raid, the Estates would not accept of it. It is in the name of the sovereign that, even under the parliamentary rule of the present day, peace and war are made. We shall afterwards see that in Scotland this power was jealously retained by the Estates. If it could have been said at this period that the consent of Parliament had no influence on such a question, the dealings of England gave it an influence. Her public documents would not yet admit Scotland to be a sovereignty, or deal with the king, and the proffer of the truce was made to "our adversary of Scotland."¹ Perhaps the Scots did not much concern themselves with such a nicety. They were determined to avenge the last inroad from England; and a little to the astonishment, and very much to the delight, of their visitors, these were informed that, for all the King of Scots said otherwise, they should have an opportunity of enjoying a raid into England. Froissart, who probably got his account from the French visitors, describes their delight in seeing fifteen thousand Scots mounted on their small horses ready to ride across the border. "They began their march," says he, "through the woods and forests of their country, and entered Northumberland on the lands of the Lord Percy

¹ See *passim* *Fœdera* of the period.

which they pillaged and burnt. They advanced farther, and then returned through the estates of the Earl of Nottingham and the Lord Mowbray, to whose lands they did much damage.”¹ It was thought natural that so large a force might attempt to recover Roxburgh Castle, still in the hands of the English; but the Scots army had too valuable a booty in cattle and prisoners to be thus risked, and they brought their new property home with all speed. An ambassador was sent to London to explain this affair, and express the desire of the Government of Scotland to partake in the truce. The inroad from England was pleaded in extenuation, and a pretty good case was made out for holding quits. Its reasonableness would hardly have sufficed to appease the wrath naturally felt by the English Government, but it happened that Lancaster was planning his expedition in Spain, and he was glad of a fair excuse for peace, so that the Scots ambassador brought back with him a peaceful answer. The strangers returned to France, where they reported what they had seen, and represented how eminently available Scotland might be made for checking and harassing England. Accordingly, when the truce was expiring in 1385, the French, instead of urging its renewal, fitted out an expedition to Scotland of two thousand men, one thousand of them mounted men-at-arms. Along with these, and far more welcome, came a thousand complete stand of arms and armour, and fifty thousand gold pieces. The expedition was commanded by a knight of renown, John de Vienne, Admiral of France.

Scotland had received the thirty knights who landed at Montrose with such hospitality that they had no reproaches to make. But here were two thousand men, accustomed to the luxurious living of Frenchmen of the higher order—as Froissart says, “used to handsome hotels, ornamented apartments, and castles, with good soft beds to repose on.” The entertainment of such guests was a serious national burden; in fact it became too heavy, for the long war had brought Scotland to

¹ Ch. c.

abject poverty. They observed that Edinburgh, the capital of the country, was inferior to the secondary towns of France, and contained but four thousand houses: in these only a portion of the two thousand could be harboured, and the rest had to seek still more sordid quarters in the neighbourhood, or in the smaller towns—some of them being scattered so far to the south as Kelso, and others northward in Fifeshire. They expected a splendid opportunity, however, for seeing the grand game of war; for England was resolved to make one of her great efforts for the annexation of Scotland. An army, said by the more moderate of the chroniclers to be fully seventy thousand strong, marched to the border, under the command of the young King Richard. The Scots doubled their usual force, and were able to muster thirty thousand. The king came to see his army and do courtesy to the strangers, but his fighting days were over. The French chronicler describes him “with red bleared eyes, of the colour of sandal-wood, which clearly showed he was no valiant man, but one who would rather remain at home than march to the field; he had, however, nine sons who loved arms.” There now arose a characteristic dispute between the strangers and the Scots leaders: Vienne was for an immediate battle; Douglas, for the Scots, proposed to follow the old-established tactic of clearing the country, and only fighting when driven to the alternative of battle. In fact, to the French war was a pastime; to the Scots it was the serious business of the world, national life or death depending on success or failure. The dispute waxed hot, and the impetuous Frenchman spoke scornfully of the spirit of his Scots allies. He was only silenced by an incident, which shows how thoroughly the Scots understood the business of war according to their own method of conducting it—how well they knew the motions of the enemy while keeping their own unrevealed. Douglas offered to let the admiral see and count the enemy, and then decide on his course. Accordingly he was taken to the top of a hill, whence, to his amazement, he could see the whole English force as if it were reviewed before him. He estimated that he saw there six thousand men-at-arms

and sixty thousand archers, and concurred in the hopelessness of meeting such a force in the field.

The admiral and his followers seem now to have thought that the war must come to an end—that there was nothing for it but a surrender. This was a conclusion, however, entirely unknown in Scots warfare; and, still further to his amazement, the admiral was made to understand that, while the great English army was left to do its worst in Scotland, his countrymen might have an opportunity of joining the Scots in an invasion of England. Accordingly, they swept Cumberland and Westmoreland after the old fashion. They were unmolested, for the country had been drained of men for the English army; and we are told that “the French said among themselves they had burned in the bishoprics of Durham and Carlisle more than the value of all the towns in the kingdom of Scotland.” They returned to find desolation in Scotland. The great English army had marched to the Forth, finding little that they could even destroy save the religious houses. They made the incursion memorable by the destruction of the rich Abbey of Melrose.¹ Then came the established fate of such invading armies—starvation. It was early in the year, when the grain was but growing, while the Scots had driven their cattle and carried their ripe grain and other effects to the shelter of the nearest hills; and the fleet which was to have provisioned the English army failed it as usual. Thus each army went back to its own country.

The surprises which were to greet the French in this strange land were not yet over. No sooner was the English host fairly across the border than the desert became animated. The people crept down from the hills with their cattle and effects, and these received a contribution from the plunder of England. The Scots took the devastating of their land with marvellous indifference; and

¹ Some compunction seems to have been felt for this act. On 25th October 1389 an allowance was made to the abbey from the local customs of Berwick, *consideratione destructionis et arsinarum* which it had sustained from the King of England by his army.—*Fœdera*.

they needed but a few beams of wood to restore their burnt cottages and make themselves as comfortable as, in those unsettled times, they ever were.

Before they were done with Scotland the strangers were subjected to unpleasant experiences, from which, however, it is our good fortune to catch a singularly clear and significant picture of the social and political condition of the people. It is ever the stranger, indeed, who gives the liveliest pictures of the internal condition of a people, since he describes it by contrast; hence it was Montesquieu and De Lolme who first showed to the British people the actual practical elements of the freedom of their constitution. The French deemed themselves very scurvily used by the Scots, and their record of grievances shows the contrast between the slavish condition of the peasantry in their own country and the thorough freedom of the Scots. To an eminent Scot or other stranger in France it would be but natural to communicate, by way of hospitality, the power of the native nobles to live at free quarters and plunder the peasantry at their discretion. The French complained bitterly that they got no such privilege in Scotland. On the contrary, when they carried off a cow or the contents of a barn, the owner, with a parcel of ruffian neighbours, would assault the purveying party, and punish them savagely, insomuch that not a varlet dared leave the lines to bring in provisions. Nay, when they rode abroad, the people rudely called to them to keep the paths and not trample down the growing crops; and when the remonstrances of these churls were treated with the contempt they deserved, a score was run up against the strangers for damage done to the country folks. Froissart's bitter account of this inhospitality is confirmed by the statute-book. The French took high ground, and it was necessary that from high authority they should be told of the incompatibility of their claims with the rights of the people. The Estates took the matter up, and required the admiral to come to agreement with them by indenture, the leading stipulation of which is, that no provender is to be taken by force, and everything received by the French troops is to be duly paid for. There is a

provision for settling personal quarrels, which was equally offensive to the strangers, as it admitted the existence of civil rights in the meanest inhabitant of the beggarly country, by providing for the decision of disputes where there was disparity of rank.¹

When, thoroughly tired and disgusted, they set about returning home, a new surprise awaited the unfortunate visitors. They were not to be permitted to leave the country, but were held in pawn for the claim against France for the debts they had incurred and the damage they had done. They were asked why they had come over—they were not wanted; Scotland could defend herself from her enemies; and they, coming as friends, had done more mischief than an invading army. The threat of detention, which they deemed preposterous, was quite serious, and remonstrance in high quarters was of no avail to control the rights of the creditors. The admiral got permission for a considerable proportion of his force to return, by taking their personal responsibilities upon himself, and agreeing to abide in Scotland until these were discharged by the French Government. The exemption from aristocratic oppression enjoyed by the Scots peasantry receives emphasis from contrast, when the chivalrous annalist describes the first things done by the ill-used knights on their arrival in their own country: "The greater number returned to France, and were so poor they knew not how to remount themselves, especially those from Burgundy, Champagne, Barr, and Lorraine, who seized the labouring horses wherever they found them in the fields."²

When they had got rid of their allies, the Scots made a second raid into England to sweep some ground that had been spared on the previous inroad.³ The English force

¹ Act. Parl., i. (Rob. II.) 190.

² Ch. clxxiv.

³ The account of this raid given by Bower in the *Scotichronicon* (xiv. 51) may be read as a highly characteristic specimen of a monkish chronicle of the period, tempered by national characteristics. It will be found to be transposed, word for word, from the vernacular into Latin, without any attempt at a classical remodelling of the sen-

was now withdrawn, and it was an interesting question what policy Scotland should pursue. Quietness and preparation for defence would have been the natural alternative; but the blood of the country was up, and it had been found on more than one occasion that the best security for Scotland lay in being mischievous and dangerous to England. The occasion, too, was tempting. The great army that was to bring the long contest with Scotland to an end was dispersed, and the experience of those who had served on it was not of a kind to make good soldiers—it was, in modern military phrase, demoralising. But even if reassembled, there was other work for it, for France was threatening an invasion of England on a great scale. The family disputes that paralysed the Government of Richard II. were at their worst. But there was perhaps a still stronger temptation to the Scots, in seeing that the two opponents, who in union were so formidable to them on the border—the Percy and the Neville—had fallen at feud with each other.

It was the time, indeed, for accomplishing what had been suggested by the French—striking at the heart of England a blow that would be remembered for generations. The alarm of England, and the vastness of the preparation consequently made, had baffled this project when the admiral and his band came over. These were gone, but the more valuable feature of their mission remained—the thousand stand of complete mail. It had been reported by the previous band of adventurers that the Scots were poorly armed. We are told that the arms sent over were of the finest kind, selected from a choice store kept at the Castle of Beauté, near Paris, the central arsenal of France. The delight of those among whom they were distributed is described as something like that of children gaining prizes. This possession was a material addition to the warlike strength of Scotland. If it

tences. The monk, in recording the event, leaves no trace of any regret that such things should be; if he feels anything, it is surprise that this rich and fruitful territory should have remained unharried since the days of Robert the Bruce.

were not of itself one of the leading motives of the new expedition, yet it is evident that so unaccustomed a treasure gave a tone to that expedition. It was less economical in its temper than previous expeditions, where the object was to do the greatest possible mischief, and carry off the largest quantity of property at a small cost of life ; on this occasion there was an unwonted display of chivalrous bravado.

The project was as carefully concealed from the king as from the enemy. A great assemblage was held at Aberdeen. Here, far from the place of warlike mustering, the whole project was planned. Those concerned then dispersed, as if their business had been completed ; and each brought the forces he could command to a place of muster, some two hundred miles from the place of council, on the edge of the English border.¹ The force assembled was perhaps the largest Scotland had ever supplied. The best authority makes it fully fifty thousand. Such a gathering could not be made so quietly but that alarming rumours would pass to those in the north of England most nearly concerned. It was resolved to send a spy to the muster, near Jedburgh. An English gentleman undertook the duty, and got access to the church where the heads of the army were assembled, passing, as it appears, for one of their attendants. Returning to a spot where he had staked his horse, he found it gone ; a well-accoutred steed unwatched was too tempting a prize in such a motley assembly. He attempted to walk away, but the sight of a person booted and spurred for riding walking off contentedly, without making any inquiry concerning his lost steed, roused suspicion. He was seized and compelled to serve the Scots with information instead of his own people. He was told that his life depended on his telling

¹ Froissart calls the place Zedon : this has been generally taken for Yetholm, the celebrated gipsy town at the base of the Cheviots. A local antiquary, however, makes out a better case for Southdean on the Jed, about ten miles from Jedburgh. He says its own people still pronounce it Sooden, which requires little variation to be pronounced like Zedon.—White's History of the Battle of Otterburn, p. 23.

the truth, and telling all; and those who dealt with him were sagacious in distinguishing true from false information about warlike affairs. It was ascertained that the English, feeling themselves this time the feebler force of the two, were to follow the policy of the Scots in the last affair—invade Scotland while their enemy invaded England. Whichever were the direction in which the Scots passed southward—to the west by Cumberland, or to the east by Northumberland—the English were to take the opposite line northwards; and it was to enable them to decide between these alternatives that they had commissioned their hopeful spy.

This was valuable information. It helped the leaders of the Scots to a decided and distinctive tactic: they would invade England on both sides and puzzle the enemy. They had among them many who, from repeated invasions, were accurately acquainted with the country, and they believed that they could so adjust their movements that, if a battle became imminent, they could bring their divided army together. The particulars of their information decided them on sending the stronger division—in fact, the bulk of the army—by Carlisle and the west. It was commanded by Sir Archibald Douglas. The other division was to make a flying raid to divert attention, rather than an invasion; and Froissart says it was made up of but 300 picked lances, or mounted men-at-arms, and 2000 footmen. They had the Earls of Douglas, Dunbar, and Moray for commanders. The policy of both divisions was to get speedily through the districts near the border, which had been so often pillaged, and frighten England by entering on new ground. It was to the smaller division on the east line that the most memorable share of the invasion fell; and they had passed so rapidly and quietly, with abstinence from all plunder, that they were at the gates of Durham ere their presence in England was distinctly felt. Distant specks of fire, bursting out in successive ranges at night, and corresponding puffs of smoke in daylight, showed that they were at work, but their motions were too quick and devious to be otherwise traced. The country they were in had been long un-
pil-

laged, and they turned northwards heavy-handed with plunder.

There was a hasty consultation at Alnwick Castle. It was resolved that the Earl of Northumberland's two sons, Sir Henry, the renowned Hotspur, and Sir Ralph, should go to Newcastle, and gather round that strong place the chivalry of the north, while the earl himself abode at home with a smaller force; thus it was hoped the invaders, on their return, might find themselves between two armies. The northern barons assembled at Newcastle in great force. The small party of Scots remained there for three days, and several passages at arms, tournaments, or outpost skirmishes, were held by the two forces. It fell out that in one of these Douglas secured Hotspur's pennon, a signal triumph to the gainer—as great a mortification to the loser. Douglas aggravated this by crying out that he would raise it on the tower of his Castle of Dalkeith. Percy retorted with a vow that he should not carry it out of Northumberland. Douglas then, in the true spirit of the fashionable chivalry of the time, told him to come that night and take it; it would be found in front of the Douglas's tent.¹

The Scots were prepared for a night attack, but the English barons were against it, for they were yet ignorant whether the Scots were a separate force, or merely a detachment of a large army skirmishing to draw the English onwards to destruction, and Percy's impetuosity was restrained.

The Scots drew off by Rede Water, where they took the Tower of Pontelands. They then passed on to another tower, bearing the renowned name of Otterburn: this they attacked in vain. Tired with the hard and dispiriting work of an unsuccessful siege, the question was, what next should be done? The general feeling was to

¹ It was, it seems, his Scots enemies who dubbed young Percy with his well-known nickname of Hotspur, eulogistic and genial rather than malignant. "Quem Scoti quondam vocaverant *Henry Hatspore*, quia ferventer eos infestaverat."—St Albans Chronicles, Annales Ricardi, ii. (Rolls edition), 245.

take advantage of the remissness of the enemy and get clear home with the booty; but Douglas and a few others were of another mind. It was in the proper spirit of chivalry that the Percys should have their revenge; the honour of carrying off the pennon was hardly complete if its loser were not offered all opportunity for its recovery. This was the generous and chivalrous view, and from the humour the Scots knights were in it carried the day. But the rules of chivalry did not demand that they should neglect those of self-defence. They intrenched themselves with much labour and diligence. The remains of their works may still be seen, so strong as to carry the impression rather of a small fortress than a camp.¹ Their scouts told Percy's party where the Scots were, and at the same time gave assurance that they were no detachment from a large force near at hand, but were in all but a small body not exceeding three thousand. On hearing this, Hotspur justified his impatient character by the vehemence with which he called to horse, and urged on his comrades and retainers to help him in the recovery of his pennon. The Bishop of Durham was coming up with a reinforcement, but Hotspur would not wait; he had already eight hundred mounted men and eight thousand footmen—more than enough for his purpose. They sped on to Otterburn as fast as the footmen could go, and instantly attacked the Scots position on a moonlit night, being the 19th August 1388.

¹ The remains of these works may be seen by going straight up the hill, behind the monument called Percy's Cross, a short way west of the village and the burn. It has often been supposed that the remains are those of an old hill-fort which the Scots had found and occupied, but they are so apt to the purpose in hand that they seem more likely to have been made for it. There is a chief enclosure with a strong double rampart, and the remains of some smaller works lower down the hill, which may have been the secondary camp of the followers who were attacked in the supposition that they were the main body. The whole process of works is much smaller than the average of hill-forts. These, too, are generally not on the slope, but the crown of the hill—in fact, there are the remains of a considerable hill-fort on the top of the hill behind the Scots camp. Some curious topographical particulars about the spot will be found in White's History of the Battle of Otterburn.

It was not the purpose of the chivalrous assailants to make a furtive attack—the Percy war-cry loudly proclaimed it to the whole camp. It appears that many of the Scots knights, tired with their work at the siege of the tower, had relieved themselves of their armour, and it took some time to reincase them in the complicated mail covering with which their friends of France had endowed them. The impatient Percys had, however, begun their attack on the quarters of the camp-followers, and these, assisted by a few spearmen from the ranks, held out while the harnessing went on. When the main body were ready for action, instead of pushing forward into the fray they adopted a tactic which Froissart says they had arranged beforehand on a careful inspection of the ground, “which,” he says, “was the saving of them; for it is of the greatest advantage to men-at-arms when attacked in the night to have previously arranged their mode of defence.” They crept out in the rear, and, sweeping round the camp, fell upon their assailants in flank. These were fighting the Scots in their camp, yet were assailed by a Scots force coming from without, a surprise likely to make them question the tale that there was no reserve at hand; but there was no panic, and as Froissart says, “Knights and squires were of good courage in both parties to fight valiantly; cowards there had no place, but hardiness reigned with goodly feats of arms, for knights and squires were so joined together at hand-strokes that archers had no place at neither party. There the Scots showed great hardiness, and fought merrily with great desire of honour. The English were three to one. Howbeit I say not but Englishmen did nobly acquit themselves, for ever the Englishmen had rather been slain or taken in the place than fly. At the beginning the English were so strong that they recoiled back their enemies. Then the Earl of Douglas, who was of great heart and high of enterprise, seeing his men recoil back, then to recover the place and show knightly valour, he took his axe in both his hands, and entered so into the press that he made himself way in such wise that none durst approach near him, and he was so well armed that he bore well of such strokes as he re-

ceived." At length he was borne down mortally wounded, and trodden over in the fight. "The Englishmen knew well they had borne one down to the earth, but they wist not who it was, for if they had known that it had been the Earl of Douglas they would have been thereof so joyful and so proud that the victory had been theirs. Nor also the Scots knew not of that adventure till the end of the battle, for if they had known it they should have been so sore despaired and discouraged that they would have fled away." Some of his immediate followers found him, rejoicing like the old Norsemen that his death, like that of many ancestors, was to be on a stricken field. With his latest strength he bade them display his banner and raise his battle-cry; and this was done with such heart that the Scots charged and broke their enemy, who seem in the thick of the hand-to-hand fight to have lost sight of their leaders. The younger of these, Ralph, fell like Douglas sorely wounded, but, rendering himself, was carefully tended. His elder brother, Hotspur, too, had to yield himself prisoner, with many others of high degree, and consequently representing a great value in ransom money. Froissart says he was told that in this affair "there were taken or left dead on the field on the side of the English one thousand and forty men of all descriptions; in the pursuit eight hundred and forty, and more than one thousand wounded. Of the Scots there were only about one hundred slain and two hundred made prisoners;" but he notes, that it may have its due influence, how he got this calculation from "those who were of the victorious party."¹

¹ Froissart's narrative is the authority for this account of the battle of Otterburn. It shows so accurate a knowledge of persons and places, and gives the sequence of events so distinctly, that by internal evidence it would commend itself to belief as rendered from the information of eyewitnesses by one who had carefully questioned them and had a peculiar capacity for getting at the truth of such affairs. Then the author tells us: "I was made acquainted with all the particulars of this battle by knights and squires who had been actors in it on each side. There were also with the English two valiant knights of the county of Foix, whom I had the good fortune to meet at Orthès the

That there was a memorable slaughter in this affair—a slaughter far beyond the usual proportion to the numbers engaged—cannot be doubted: nor was there ever bloodshed more useless for the practical ends of war. It all came of the capture of the Percy's pennon. The Scots might have got clear off with all their booty; the English forgot all the precautions of war when they made a midnight rush on a fortified camp without knowledge of the ground or the arrangements of their enemy. It was for these specialties that Froissart admired it so. He saw in it a fight for fighting's sake—a great passage at arms in which no bow was drawn, but each man fought hand to hand; in fact, about the greatest and bloodiest tournament he had to record. Hence his narrative is ever interrupted with bursts of admiration as his fancy contemplates the delightful scene raised before it. He is eloquent, too, on the knightly generosity and chivalrous courtesy shown on both sides, and especially on that which had the best opportunity of being generous—the victorious. To con-

year after this battle had been fought: their names were Sir John de Châteauneuf and John de Canteron. On my return from Foix I met likewise at Avignon a knight and two squires of Scotland of the party of Earl Douglas. They knew me again from the recollections I brought to their mind of their own country; for in my youth I, the author of this history, travelled all through Scotland, and was full fifteen days resident with William, Earl of Douglas, father of Earl James, of whom we are now speaking, at his Castle of Dalkeith, five miles distant from Edinburgh. Earl James was then very young, but a promising youth, and he had a sister called Blanche. I had my information, therefore, from both parties, who agree that it was the hardest and most obstinate battle that was ever fought. This I readily believed, for the English and Scots are excellent men-at-arms, and whenever they meet in battle they do not spare each other."—Ch. cxxvi. This passage is from Johnes's translation, which the Author has generally found it convenient to use. The passages in the text, however, are, with the spelling modernised, from the translation by Lord Berners. If he was in general less accurate than Johnes, his instincts as a military commander seem to have helped him to more precision in rendering descriptions of actual fighting, and there may be something in his having lived so much nearer to the time. The editor of the 1844 edition of Johnes's translation gives in a note, to help his text, the account of the battle of Otterburn from Berners's translation.

vince all who read his narrative that he is right in the eulogies he bestows, he gives some narratives of personal adventure among the combatants. These are very amusing as episodes and anecdotes, but would be spoilt by removal from their own proper place in Froissart's narrative.¹ The chivalrous nature of the battle had its charm for the popular minstrels of the day as well as for the courtly historian. It was commemorated in those old songs of Percy and Douglas, of which Sir Philip Sidney said that when he heard the singing of them by some poor "blind crowder" he was "moved more than with a trumpet." Besides the ballads which commemorate the battle of Otterburn by name, the still more popular and renowned ballads of the Chevy Chase bring out the same narrative of events, with only a little more of the minstrel's licence.²

The battle of Otterburn has this much significance in history, that it marks the fading from the defenders of

¹ The war had hitherto been far too serious a matter to encourage indulgence in superfluous displays of chivalry. Bruce's affair with De Bohun no doubt had a dash of the chivalrous in it, but it was an application of the fantastic usages to a serious object, which it accomplished. Occasionally there came out smaller manifestations of this spirit. Between the battle of Bannockburn and the Treaty of Northampton, Norham Castle was often attacked by the Scots in their fugitive raids, and was considered a post of great danger. For that reason it came under the special notice of a knight named Sir William Marmion, who had been endowed by the lady of his devotions with a helmet crested with bright gold, which it was his duty as a true knight to display in the most dangerous ground he could find. On consideration, he decided for Norham. The governor, Sir Thomas Gray, humoured him, and offered him his proper opportunity. He said he knew what his visitor had come for; it was to win renown for his lady-love's gift, the golden helmet—*vous y estes venuz chevaler erraunt pur faire cel heulme estre conuz*. Gray good-naturedly put him in front of a sortie, promising to support him and rescue him dead or alive—might he be forsaken of God if he did not. The knight of the golden helmet charged the Scots accordingly. He was unhorsed and evilly entreated, but Gray kept his promise and charged to the rescue. The golden-headed knight was able to join in the charge which drove the besiegers off, and accomplished one of the minor successes of the long contest. The story is told by Gray himself in his Scalacronica, 146.

² In one of the versions of Chevy Chase, attributed to Richard

Scotland of the dread of immediate absolute conquest by England. It is like the inhabitants of a besieged city taking to their natural courses when the immediate danger is over. The Scots could now afford to play at war with that enemy which had given them so much of its serious business.

The dangers of the small invading army were not at an end when Percy's force was driven back. These, in their retreat to Newcastle, met the Bishop of Durham advancing at the head of ten thousand men. When they thought the

Sheale, a bard of the sixteenth century, the identity with Otterburn is noticed:—

"This was the hontynge of the Cheviat,
That dear begane this spurn,
Old men that knowen the grounde well enough
Call it the battell of Otterburn."

See "Hunting of the Cheviat, or the ancient ballad of Chevy Chase," in Percy's Reliques.

In this, and in its more modern shape, as it will be found in the *Elegant Extracts* and other collections, the ballad sinks the original cause of the quarrel—a raid for plunder. It gets the more chivalrous origin of a defiant hunting in the enemy's forest. The nationalities are inverted too, and it is the Percy who invades Scotland.

"The stout Earl of Northumberland
A vow to God did make,
His pleasure in the Scottish woods
Three summer days to take,
The chiefest harts in Chevy Chase
To kill and bear away.
These tidings to Earl Douglas came
In Scotland where he lay."

In the changes to which traditional poetry is subjected, Chevy Chase connects itself with the Cheviot Hills; but the term is evidently a variation or corruption of *chevauchée*, which in the Norman French of England meant the sort of plundering expedition now better known by its Scots name of "raid." Thus in a minute of the English Council the usual invasions by the Scots borderers are called "Invasions, arsures, chevauchées, et attemptatz."—*Fœdera*. In France it applied to equestrian movements of a more dignified character—as to judicial journeys or circuits. One of the French meanings, however, is cognate to the English: "Le droit de chevauchée est un ancien droit seigneurial qui est la même chose que celui que nous appelons *Arrièreban*; droit de faire marcher ses sujets ou vassaux à la guerre;" and, "Devoir chevauchée; c'est être obligé de monter à cheval pour défendre son seigneur féodal dans ses querelles particulières."—*Dict. de Trevoux*.

matter over afterwards, it became disagreeably clear that, had the bishop's party joined the fugitives in a new attack, the Scots would to a certainty have been beaten. But there was still the uncertainty about the possible presence of a large Scots force, and a general discouraging confusion. While the bishop was discussing the matter with some of the leaders, his following got gradually mixed up with the fugitives, and he resolved to join the retreating body.

Next day he marched against the Scots, but these had been busy in the mean time strengthening their position into a thoroughly fortified camp. The enemy, on coming within two bowshots of them, were received after a manner so strange that it must be told in the words of the great chronicler himself: "The Scots have a custom, when assembled in arms, for those who are on foot to be well dressed, each having a large horn slung round his neck in the manner of hunters, and when they blow all together, the horns being of different sizes, the noise is so great it may be heard four miles off, to the great dismay of their enemies and their own delight. The Scots commanders ordered this sort of music now to be played. The Bishop of Durham, with his banner, under which were at least ten thousand men, had scarcely approached within a league of the Scots when they began to play such a concert that it seemed all the devils in hell had come thither to join in the noise, so that those of the English who had never heard such were much frightened."¹

Froissart mentions another peculiarity of the warlike resources shown in this incursion of the Scots—the use by the unmounted men of a long-shafted battle-axe wielded by both hands. It was similar in shape to the English bill, but much larger, and it was afterwards well dreaded as a formidable weapon in the hands of those trained to it; it became known in later times as the Lochaber axe—a long shaft, with a blade longer than an axe's and shorter than a sword's, with a hook behind, which might be used in climbing walls, or perhaps in catching a fugitive.

¹ Ch. cxxx.

The bishop's army, which seems to have been in great part a raw levy, had an opportunity of making a leisurely and close examination of the position of the Scots, for these had no force of bowmen, and they could not afford to leave their position. The English admired the skill they had shown in fortifying themselves, and justified this admiration by retiring from the place as impregnable. Its occupants then speedily went home unmolested, through a country glad to see them pass northwards without stopping to do business on the way. The brilliant career of the small detachment sent eastward cast into shade the march of the main army along the west, and we only hear that it returned, whether empty-handed or with a satisfactory amount of plunder is not recorded. Next year there was another Scots raid across the border, headed by the Earl of Fife, newly appointed governor of the country. Of it also no memorable achievements are told, nor are there any tokens of rejoicing over plunder, for that kind of harvest seems to have been for the time exhausted.¹

In the same year, 1389, a truce was established between England and France. It was accepted by Scotland, and was carried down by renewals to the year 1399.² It came to cheer the last days of the old king, who left the character

¹ The reiteration of these plundering expeditions can hardly convey a pleasant impression to readers removed from the influence of national partialities: of all methods of warfare they are no doubt among the most cruel and wasteful. They are utterly opposed to that more generous and enlightened principle of modern war which avoids mere mischief and injury to the private citizen, but endeavours to paralyse the enemy by dealing great blows against the centre of his political or military power. Yet these raids or forays are ever the way in which a weak state will deal with a strong one in a death-struggle—that is, when the war is not one to punish some insult or injury, but a determined effort for conquest and national annihilation. To the great power complaining of such acts this will ever be the answer of the small one: If you wish to keep your people from harm at our hands, let us alone—give over your effort to enslave us. The same course was pursued after the middle of the nineteenth century by the Southern States of America. Their incursions got the old Scots name of raids, and have met with signal approval. Scots raids of the fourteenth century were in a cause surely as sound.

² *Fœdera*, vii. 623 *et seq.*; *Rot. Scot.*, ii. 98.

of a peaceful ruler over a quarrelsome people. Robert II. died in 1390.

He was succeeded by his eldest son. John was the name given to him in baptism, yet so hateful had the words "King John" become, as the title of him who bore the odium of selling the national independence, that it was deemed a prudent policy to give the new king the popular name of Robert, although that was held by his younger brother. Accordingly he was crowned as Robert III. The nine years' suspension of war with England gave him for a time a peaceful reign. The general quiet was only disturbed by family quarrels, and by some escapades of the Celtic races of the north and west, which will have to be afterwards referred to in taking up the thread of events concerning these districts. In the year 1396, however, there came to pass a tragic occurrence, in which some of the Highlanders were the actors—an occurrence which connects itself neither with their history nor with that of Lowland Scotland, but stands apart by itself.

On the 23d of October 1396, on the beautiful diluvial meadow by the Tay called the North Inch of Perth, lists were staked off as for a great tournament, and benches and stands were erected for spectators. A vast crowd gathered there of all ranks, from the king himself downwards. The spectacle which drew them together was a battle between two bodies of the wild Highlanders, thirty on each side. They were to fight in their native fashion, with axes, swords, or bows, having no defensive armour. The chronicles mention an odd incident in the arrangements. A combatant on one side losing heart swam the Tay and made off. The question then came how the equality of numbers was to be made up. A common artificer of Perth—a little man, but strong and able at his weapon—agreed to fill the empty place for a small fee, and a life provision should he survive after having done his work well; and the bargain was accepted. Though but briefly noted as a piece of eccentric courage in a person of humble condition, this incident has come up so often and in so many shapes in literature and tradition, that the story of the Gow-chrom, or Crooked Smith, as he is sometimes

called, is as familiar as many leading events in history. Such a contest would make a lively variation on the monotony of the tournament, with its stately etiquettes and regulated restraints. It was the nature of the beings brought together to fly at each other like wild-cats and kill in any way they could. The affair was as bloody as heart could desire. Of one side but ten remained, all wounded ; of the other, but one.

The object of this exhibition has produced much speculation. It has been said that there was a standing rivalry and contest between two clans, or groups of clans, which kept the Highlands in ceaseless discord and confusion ; that all efforts to bring them to terms had failed ; and that some wise counsellors, looking perhaps to the precedent of the Horatii and Curiatii as told by Livy, had suggested the plan of putting their quarrel to the ordeal of an equal combat, at the end of which the clansmen of the beaten warriors were peacefully to accept of their old enemies as their masters and come under the banner of their chiefs. One part of such a project was certain to be fulfilled. Set face to face, the enemies would fight each other to the utmost ; but if it was believed that the second part had any chance of holding, the statesmen of the day must have been ignorant to an incredible degree of the Highland character as it comes out in later history. For a whole race to submit to the ordeal of battle would imply the very highest devotion to those rules of chivalry which were an extravagant fashion in all the countries under the Norman influence, but were utterly unknown to the Highlanders, who submitted when they must submit, and retaliated when they could. That such an adjustment could be effected among them is about as incredible as a story about a parliamentary debate in Persia or a jury trial in Timbuctoo. On the other hand, if the mere death of so many Highlanders was the object, it was to be accomplished on but a small scale, unless the combatants were all chiefs or leaders of some sort. So little eminence, however, appears to have been among them, that even the men who are said to have been the heads of the quarrel on either side are not identified by Celtic antiquaries

with anything like certainty as belonging to eminent or even known Highland families.¹ They cannot be fitted into any of the genealogies, accurate or fabulous, to be found in the peerages and family histories, nor has any one been able to show the districts over which they ruled.

The slaughter of some fifty or sixty of the Celtic caterans was no doubt so far desirable, though later Scots governments found ways of accomplishing such a service on a very different scale. One cannot help thinking, however, that the chief motive for countenancing and stimulating such a passage of arms was the idea of a spectacle, original and exciting in its character—something partaking of the old gladiatorial contests of the Romans, and of the tournaments of chivalry. The allusions by the chroniclers to the vast multitude, including distinguished foreigners from England and France, who assembled on the North Inch as spectators, encourages the supposition that the affair was a great spectacle; and looking at in this light, it was certainly an eminent success.

¹ The *Scotichronicon* calls the pestiferous caterans of the mountains, "Scheabeg et suos consanguinarios qui Clankay, et Cristi Jonson ac suos qui Clanquhele, dicebantur." In the *Registrum Moraviense* (382), the quarrel is said to be between two "Parentalæ, Clanhay [not Kay], and Clanqwhle." In the *Extracta e variis Cronicis Scocie* (203), it stands: "Unus Sceauchbeg caput Clancay vocatus, alius Cristi Johneson caput Clanqwele dictus." In Wyntoun we have:—

"Thay thre score ware clannys twa,
Clahynnhè Qwhewyl, and Clachinyha.
Of thir twa kynnys ware thay men
Thretty again thretty then,
And thare thai had than chiftanys twa—
Scha Ferqwharis sone wes ane of thay,
The tother Cristy Johnesone."

—B. ix. ch. 17.

All that the editor of Wyntoun, David Macpherson, who professed to have a good deal of Highland lore, has to say to this is: "These names, though doubtless somewhat corrupted by Wyntoun himself, may furnish a clue whereby those who are versant in Highland genealogies may yet settle the dispute which has lately been agitated for the property of these ferocious chiefs and their sanguinary followers, and trace them to their true families" (ii. 518). Wyntoun, who from his Priory in Loch Leven might have taken a walk to see the show, says nothing about deep political motives, but simply describes the battle, and calls it a "selcouth thing,"—an amazing thing.

At the establishment of the truce of 1389, the contest with England had gone on for very nearly a hundred years, with no longer interruption than the uneasy truce of seven years in 1347. It was natural to find that a people trained through several generations in warfare would not take readily to the ways of peace, and at once convert the spear into the pruning-hook. The bulk of the able-bodied men throughout the country were banded together under the territorial lords as their military commanders, and the organisation thus framed did not at once come to pieces. Since they were not called against an enemy abroad, they took to mischief at home. It is always so when a sudden peace disbands an army, unless it is to be absorbed into a strong and thoroughly organised civil government. When a war between despotic powers ceases, the evil takes the shape of a dispersal of disorganised marauders; in Scotland, distributed as power was at that time, it took more generally the shape of separate bands organised under territorial chiefs, all quarrelling with each other and doing mischief to their unprotected neighbours. It required a strong hand to check such destructive influences, and that was not to be found in the Court of King Robert. He was a man of peace like his father, infirm in body and in will, easily entreated by the designing, and preferring his personal ease and peace to his duty. Then his eldest son, the Duke of Rothesay, known only for his profligacy, was as ready to sacrifice everything to active pleasure and sensual enjoyment as his father to indolence. The next in command, the king's brother, known as the Duke of Albany, was a man of ability and courage, but none of his resources went to the benefit of the public—all were retained to further his deep-laid plots for his own aggrandisement.

Under such political conditions, the burghal and industrious peasant population suffered fearfully. The wretchedness of the people cries out to us in the present day through the vehement lamentations of the chronicles, that law and justice and mercy were unknown throughout the land, and that the strong took and tyrannised, and the weak had to endure. It all stood in melancholy contrast

with the strong rule of Robert Bruce and Randolph, and with the traditions of the peaceful and plentiful days of good King Alexander, before the ambition of the Plantagenet kings had brought on the calamities of Scotland. Indeed, Scotland during the long truce seems one of the best examples to be found of the social condition admired by a recent poet as "the good old rule," "the simple plan,"

"That they should take who have the power,
And they should keep who can."

At length the cry of the nation reached and was echoed by the Estates in Parliament. These met in 1398, and left an example of the blessed influence of such assemblages, even in a rude and imperfect shape, provided they contain representatives of varied interests. In this assembly were those who had been the most flagrant and powerful transgressors, yet the Parliament collectively emphatically denounced the evils of the day, and sought to find a remedy for them. Nor did they spare any one who could have checked the mischief. The Estates had not discovered that formula which deprives a monarch of personal power under the pretence of exemption from responsibility—the maxim that the king can do no wrong. They began by a declaration that the misgovernment of the realm, and the failure to enforce the law, must be imputed to the king and his officers. If he can charge the default against his officers, however, he has an opportunity of doing so. Let him accuse them before the council of Parliament who will hear what they have to say, and then judge.¹

¹ It has already been mentioned that those who, in the reign of the later Stewarts, edited the old laws and state papers of Scotland, tampered with them to render them conformable to the court notions of the day. Of this Sir John Skene's rendering of the resolution of 1398 is a signal example. The three communities of "the kynryk gadderit in general council," "Quwhere it is deliveryt that the mysgovernance of the reaulm, and the default of the keypyng of the common law, sulde be imput to the kyng and his officers. And tharfore gife it lyks our lorde the kynge til excuse his defautes he may at his lyking gerre calle his officeres to the quhilks he hes giffyn commissione, and accuse thame in presence of his consaile. And thair answeire herde, the

The Parliament then—on the preamble that it is well seen and kenned that their lord the king, for sickness of his person, may not travail to govern the realm, nor restrain trespassers and rebellers—judge it fit that his eldest son and heir, the Duke of Rothesay, should act as his lieutenant, with his full sovereign powers, limiting the lieutenant's commission to three years, and appointing a council named in the Act for his guidance. He is to swear, as the king his father swore at his coronation, to preserve undamaged the privileges of the Church, to cause the laws and lovable customs of the realm to be kept to the people: he is to restrain and punish masterful misdoers, and especially to restrain cursed men and heretics, and those that are thrust furth of the Church. There follows a significant provision, that the due execution of his office shall not be hindered by countermandments from the king, "as somewhile has been seen;" and if any such countermandments be issued, they are to be ineffectual.

It is further provided that all his acts as sovereign shall be minuted, with the day and place, and the names of those counsellors who are present at the transaction, in order that they may be responsible to punishment by the Parliament if they have transgressed. There are provisions for strengthening the executive in bringing offenders to justice,—a suggestive item of which is the dealing with those who put the officers of the crown at defiance, and cannot be brought to justice. These, after due warning

consaile sal be redy to judge their defautes."—Act. Parl., i. (Rob. III.) 210. This, as printed in the reign of James VI., stands: "Quhere it is delivered, that the misgovernance of the realme, and the default of the keeping of the common law, sould be imput to the king's officiairs; therefore, gif it likes our lord the king, he may at his liking gar call his officiaires to quhom he hes given commission, and accuse them in the presence of his counsell. And their answer being hard the counsall sall be readie to judge their defaults." The mutilation destroys the logical as well as the constitutional tenor of the document. The reason for permitting the king to accuse his officers—namely, that he might exonerate himself—being withdrawn, leaves nonsense. The provisions that follow are not printed in Skene's edition.

that they are wanted, and proper certificates that they have got sufficient notice to appear, are to be proclaimed rebels to the crown, or outlawed, and so be liable to the forfeiture of their estates.

This Parliament was conspicuous by a new title of dignity appearing on its rolls—that of Duke. It was limited at the beginning to the blood-royal. The new regent appeared as Duke of Rothesay, his uncle as Duke of Albany.

The Scots borderers watched the termination of the truce in 1399, that they might get loose on England like hounds let off the leash. It was asserted on the part of England, indeed, that they did not wait for the conclusion.¹ Ten years of peaceful husbandry had prepared a harvest for them, and they swept it off in the old way—the English borderers retaliating by an invasion of the Lowlands. The political aspect again became menacing for Scotland. The conditions which rendered peace almost a necessity for England had ceased with a revolution. It was no longer Richard II., but Henry IV., who reigned; and he began his reign by a great invasion of Scotland.

It is announced by a curious change in the tenor of the diplomatic phraseology applied to Scotland. On the 14th of August 1400, it is no longer “our adversary of Scotland” that is addressed, but the King of England sends to the King of Scotland greeting. The purport of the appeal explains the change of nomenclature. The absolute conquest and annexation of Scotland had been the tenor of all English transactions since Baliol’s resignation of the crown in 1296, excepting for a short period beginning with the peace of Northampton. Now the King of England was to be content with the power of lord superior, and acknowledged Robert III. to be King of Scotland as

¹ It is amusing enough in the solemn pages of the *Fœdera* to find literally the *nom de guerre*, or pugnacious nickname, of one of the border chiefs printed in large letters. It is an instruction to keep him in safe custody: “Quod capitaneis et aliis, qui Ricardum Rotherford militem et filios ejus ac Johannem Turnbull OUT WYTH SWERD et alios capitaneos . . . ceperunt.”—*Fœdera*, viii. 162.

his vassal. Desirous to bring to a conclusion the wars and misfortunes which the rebellions of previous kings of Scotland had caused, he intimates his intention of marching to Edinburgh, and there, on the 22d of August, receiving the liege homage of King Robert. Lest any surprise should be felt at such an injunction, he reminds King Robert how this question of vassalage had been settled in the instance of Locrinus, the son of Brutus, and how this fundamental precedent had been followed by many others. Upwards of a century had now elapsed since the time when Edward I. provided, in his court of lord paramount over Scotland, a treasury of instruction in feudal practice for the benefit of archæologists and jurists. Some changes were likely to come, either for better or for worse, in so many years; and it is likely that the feudalism might find the practice of the year 1400 to have degenerated from that of 1291. At all events, it was different. Beside King Henry's requisition to his vassal the king, is a document which certainly King Edward's feudalists would not have prepared for him. A duplicate of the requisition to the King of Scots is addressed to the dukes, earls, and other *proceres* of Scotland. They are directed to persuade their king to do his duty to his lord superior, and if they are unsuccessful in this effort, to come and offer the lord superior their own homage. There is a third stage in this eccentric feudal process. Three knights and three esquires of England are appointed to intimate the requisition, like officers of the law executing a citation. They were to endeavour to serve the writ personally on the said King of Scots and all his *proceres*, if they could conveniently do so. Should they fail in personally serving the King of Scots and the feudatories of his crown with the writs, they were instructed to proclaim their substance, in a loud and audible voice, in Kelso, Dryburgh, Jedburgh, Melrose, Edinburgh, and wherever else they thought fit. This no doubt was after the form of some writ used in the English law courts.

Henry was serious, however, and began his reign with a grand invasion of Scotland. He marched with a large force as far as Leith. There he renewed the demand of

homage in a querulous appeal, in which he complained, not only that his just demands remained unnoticed, but that the Duke of Rothesay had sent him a defiance to a passage at arms, with one, two, or three hundred on each side.¹ Rothesay was then acting as Governor of Edinburgh Castle, which held out stoutly and effectually against the English. Albany commanded a large army at Calder Moor, a few miles distant. As he did not offer battle, it has been suspected that he had no objection to see Edinburgh Castle fall, and his nephew killed or taken. Had it not been for what afterwards occurred, however, a sufficient motive might have been found for his inactivity; for the English force was dwindling away under internal causes of dissolution. It would seem that Henry wished to make himself popular by the conquest of Scotland, but, as a new king, was afraid to ask for a supply, and trusted to the feudal obligations for his army: these gave him a great force, but were insufficient to hold it together. He retired with the most bloodless and inoffensive army that ever entered Scotland, having apparently satisfied himself that conquest there was a vain dream. Immediately after his retreat, we find the sovereign of Scotland losing his rank of king in the English state papers, and again reduced to the position of "our adversary of Scotland."

Yet King Henry's hands were at that time strengthened by a great desertion from Scotland. The Earl of March, who vied with the Douglas in holding the largest domains and the greatest feudal influence in Scotland, solemnly transferred his allegiance to the King of England. His

¹ It is said in some histories that the Prince offered to stake the issue of the quarrel—the independence of Scotland—on the result of such a passage at arms. Madcap as he was, however, there is scarcely authority for this, though he and King Henry seem to have banded assurance about a desire to avoid the shedding of Christian blood: "*Idem etiam David, in dictis suis literis, asserit quod, sicut et nos ita et ipse, desiderat Christiani sanguinis effusionem evitare, et tamen in eisdem literis, cum trescentis aut ducentis seu centem nobilibus, se offert nobiscum pugnaturum, quasi nobilem sanguinem Christianum non censeret.*" This taunt would not have told, had the offer been to decide the quarrel so, instead of by war.—*Fœdera*, viii. 158.

was one of the oldest houses in Scotland, yet its allegiance was not of long standing. His father sheltered Edward II. in Dunbar Castle when he fled from Bannockburn, and for a time served Edward III. and Baliol; and his grandfather, whom we have met with as one of the competitors for the crown, was a faithful follower of Edward I. The Duke of Rothesay was, in 1399, betrothed to Lady Elizabeth Dunbar, the Earl's daughter; yet next year he was married to Marjory, the daughter of Douglas, the great rival and feudal enemy of March. This, it is said, drove him to his change of allegiance. Yet so early as 1393 there exists a royal letter authorising messengers or ambassadors to treat both with him and with Douglas for a transfer of their allegiance to England.¹ March engaged for the allegiance both of himself and his vassals, or subjects as they are called; but there is no trace of his having carried any of them into England. He would naturally expect that, if there was to be a serious contest between the two countries, he could hold his own territory on the borders in allegiance to England; but the complete abandonment of any serious attempts on Scotland threw him on the bounty of the English king. He had given facilities for the invasion of Scotland, as he held the Castle of Dunbar; but after Henry's retreat, it was taken by his rival, Douglas, for Scotland. Although he profited nothing by the change, however, it fell to him to do his old country some mischief. In 1402 he headed an English force, which defeated at Nisbet Moor a few hundred Scots engaged in a raid into England.

This was followed by a more serious affair in September of the same year. A considerable army was raised, and sent into England under Douglas to imitate the great exploit of his father. He succeeded so far as to reach Durham, and was returning to Scotland in great confidence, with a rich harvest of plunder. When the rieviers had got as far as Wooler they heard that Hotspur and the apostate March were coming to meet them with a large force. They took up their position on a piece of strong

¹ *Fœdera*, vii. 754.

ground called Homildon Hill. It is said that Hotspur was for an instantaneous charge, as at Otterburn, but that he was stopped by March, who better knew both the strength and the weakness of a Scots force. Formed as they were in a compact mass on the hill, the bowmen were set to play on them, and did so with deadly effect. The tactic of Douglas should have been, after Bruce's at Bannockburn, to charge the archers with cavalry. Though this arm existed in abundance, however, it was not used till too late. The Scots leader, indeed, seems to have lost head, for he allowed his troops to be butchered around him. So splendid was the English archery, that Douglas himself, though he wore a coat of mail of notable excellence, had five arrow-wounds, though none of them was mortal. A young knight, Sir John Swinton, gained fame by exhorting his countrymen to charge the enemy, and at all events die fighting—and he gave example by a dash on them with a few followers; but these were insufficient for the purpose, and were all speedily killed. It was a complete victory for England, remarkable for the number of eminent Scots taken or killed. It was entirely the reverse of Otterburn, both in the result and the method of attaining it; for, as Froissart says, there had been no bow drawn there—at Homildon all the work was done with the bow, and there was no hand-to-hand fighting.

It is among things not easily accounted for, that a people so keenly and practically alive to everything warlike as the Scots were, should not ere this time have taken from the repeated punishments they suffered a lesson as to the strength of that great arm of English armies—the bowmen. The strength of a Scots army lay in the spear-men and the axemen. These were terrible in hand-to-hand conflict, but their enemies had a weapon which cut them off from their opportunity. It is difficult now to realise the power of the English bow and cloth-yard shaft. Much faith was given to the cross-bow, because it was bent up to its check by placing the foot on the bow and dragging the string with the hands, so that the strength of both arms and legs was given to the drawing of it; but it

proved a paltry weapon beside the bows drawn by strong yeomen—bows so large that the fitting length was that which allowed the feathering of the arrow to touch the ear. Gunpowder had now been for some years in use. Barbour is supposed to speak of a gun of some kind when he says the English used “crackys of weir,” or cracks of war, in the affair with the Scots rievvers in Weirdale, before the death of Robert the Bruce. But hitherto in the home wars the long shaft shot from the upright bow was still the prevailing missile.

At the time of this unfortunate battle the mind of the people was excited by a scandalous tragedy. The Duke of Rothesay, the heir of the crown, had been committed to a dungeon, which he never left alive, and the rumour began and gathered force that his dark uncle had murdered him there. It appears that the young man's escapades had become more transcendent and troublesome since his marriage. He and Prince Henry of England were, curiously enough, following the same course. Whether or not one took of the other, each was, as Falstaff says, “a mad wag with quips and quiddities,” some of which were of a serious nature, since they touched the administration of justice. There was a good case for restraint, and plans were laid for effecting this, if not something further. For some ground or other of offence, the poor prince's brother-in-law, Douglas, joined Albany in the plot against him, and they were assisted by a Sir John Ramorny, said to have been a minister of the prince's pleasures, whom also he had made an enemy. On the death of the Bishop of St Andrews, the prince was going to seize and occupy his castle—whether in pursuance of one of his mad pranks, or with some serious purpose legal or illegal. He had got as near his object as Strathtyrum, a mile or so from the castle, when he was seized, and carried to the castle or palace of Falkland. Thence his body was some time afterwards removed for burial in the monastery of Lindores, and it was given out that he had died from an attack in the stomach. Public rumour, however, loudly proclaimed that he had been murdered; and when it was insisted that no one had laid hands on him or done him

any violence, it was said, that might be true, yet had he been murdered by the cruellest of all methods—starvation. There was a parliamentary inquiry into the affair. This was not in the shape of a trial for a crime, but of an inquiry for the sake of clearing up doubts and rumours. The conclusion is set forth in an equivocal form tending to strengthen suspicion. It is declared that the young prince died by the visitation of Providence, and not otherwise.¹ For his capture and detention, and for his death in the manner so described—that is, by the visitation of Providence—Albany, Douglas, and their assistants are indemnified, and all persons are forbidden to circulate false and calumnious rumours against them.² By Rothesay's death Albany regained his old office of governor. To clear to him the way to the throne, however, would have required more crimes or calamities; for the king had yet a son—afterwards James I.—and three daughters.

In the course of the border quarrels, which hardly ever ceased in the intervals between the truces, the Percys brought a large force northwards, and occupied it for a noticeable period in the siege of a private laird's peel or tower, called Cocklaws—a siege which proved unsuccessful, though the force employed in it seemed preposterously above the object to be gained. It was suspected, and not without reason, that the Percys had some other motive than the taking of a border laird's castle or strong house, and that they professed to be carrying war into Scotland that they might have an opportunity of plotting with Governor Albany to help them in the insurrection they were going to raise against King Henry. They had

¹ “Ab hac luce, divina Providentia et non aliter migrasse dinoscitur.”

² Act. Parl., i. (Rob. III.) 220. It must be remembered that the accusation rests only on an assertion in the *Scotichronicon* and the chronicles founded on it. Wyntoun says nothing of it, though he pathetically laments the young prince's death (ix. 23).

It may be worth noting that starvation was one of the ways in which the Lancastrian party were accused of having disposed of Richard II. just at the same time. A kind of epidemic spirit sometimes influences accusations of crime.

been among the chief abettors of his advance to the throne ; yet, whether it was that they did not think themselves sufficiently rewarded for their eminent services, or that they had some deep project in design, it is certain that, within three years of their settling him on the throne, they came very near to casting him down from it. They were in secret alliance with Owen Glendower, who headed so effectual an effort of the Welsh to regain their old nationality, that for a time he so completely defied England as to be actually King of Wales. Percy released Douglas and other Scots captives taken at Homildon, and this was done in defiance of a royal order which, for some particular reason, required that none of the prisoners taken in that battle should be ransomed.

Douglas collected a force and marched into England. We enter here upon historic ground, the scenery of which has been made familiar to all the world, as rendered by Shakespeare ; but it is on the English side that he has taken possession of it. We are not bound to inquire, in dealing with Scotland, how far his picture is accurate, though we cannot but feel the charm of that energetic spirit of chivalry with which he has filled the character of Douglas. He and Percy, as is well known, were vanquished in the hard-fought battle of Shrewsbury. Albany had then collected perhaps the largest army ever raised in Scotland, and marched to the border professedly to raise the siege of Cocklaws. But its assailants were otherwise employed—he found the tower in its natural loneliness. This was accounted for by immediate news of the battle of Shrewsbury. Albany, if he intended to take part in it, was too late, and he had nothing for it but to disperse his army.

He was at that time trying how he could bring to work against King Henry an influence of another kind. It was reported on authority that Richard II., the deposed King of England, had died a natural death soon after his deposition. It was believed by many opponents of the Lancaster dynasty that he had been murdered. From Scotland a rumour went forth that he had been seen in the far-off dominions of Donald of the Isles. According

to one form of the story, he was recognised by a noble Irish lady—a member of that house of Bysset which was driven from Scotland, on account of the death of the Earl of Athole, some hundred and sixty years before. By another account he was recognised by a court jester. The accounts agree on one point, that he repudiated the illustrious origin imputed to him. Albany, however, took him in hand, and treated him as the exiled monarch of England. Whether or not he was what others thus insisted on counting him, he seems to have been a poor half-witted creature, incapable of doing anything for himself or personally helping the policy for which he was used. He died in 1419, and was buried in the church of the Dominican Friars in Stirling.¹

Entries have been found in the chamberlain's accounts connected with the cost of supporting King Richard of England. They run up a score of arrears, and show that Albany, as governor, entered a claim against the exchequer, inasmuch as he was out of pocket for the support of this illustrious exile. The business-like character of these entries is supposed to prove that Richard II. of England lived several years in Scotland, and died there.² They prove, however, only what needed no proof, that Albany, the governor, had in his possession a man whom he treated as Richard II. of England. If it was a falsity and imposition, he was not likely to tell this to the scribes who made up the chamberlain's accounts.

It has been observed as significant that the English Government did not, in this as in other instances of the starting of a pretender, make any demands either that the man should be given up or the pretensions proffered in his name withdrawn. There was entire silence on the part of England. But before drawing any absolute conclusion from this, we would require to know more of the intricacies

¹ The inscription, beginning "*Angliæ Ricardus jacet hic Rex ipse sepultus*," will be found in the *Extracta ex Cronicis Scocie*, p. 221.

² *Historical Remarks on the Death of Richard II.*, by P. F. Tytler. See *Tracts, Legal and Historical*, by John Riddell, who professes to identify the man who was made to act the part of the dead king.

cies of the affair, and especially of the guilty secrets that might come to light by stirring it. What if the substantial evidence that Richard could not be alive in Scotland were that he had been murdered in Pontefract? Then the imposition, if such it was, had no active shape. Henry might well wait until his adversary brought this king on the board, to make his own move. We must be content to accept of the affair as one of the unsolved mysteries of history. The populace of London were, we know, invited to behold the body of King Richard, publicly shown to them in St Paul's Cathedral. Thus the statecraft of the times leaves us the alternative, either that Henry of Lancaster produced a spurious dead Richard in St Paul's, or that Albany kept a spurious live Richard in Scotland.

Whatever Henry may have apprehended from Albany's game, fortune gave him wherewith to play against it. King Robert's remaining son James, a youth fourteen years old, was to be sent to the Court of Scotland's ally, France, to be protected and educated. With a suitable attendance, he sailed from the Forth in March 1405. Off Flamborough Head their vessel was met and captured by an English armed ship. This occurred while one of the truces with Scotland was yet unexpired, but it was useless to argue with the English king against his keeping possession of his prize. The opportunity of kidnapping a royal personage was a temptation which scarce any monarch of that age had virtue to resist. There was a strong opinion, too, that the act would not be heavily avenged by the prevailing powers in Scotland; indeed, it was suspected that Albany had given hints, if not more than hints, how the capture might be effected. Little more than a year afterwards—on 13th April 1406—King Robert died, after a harmless but profitless reign. It was believed that the misfortunes of his family hastened his end.

CHAPTER XXVII.

NARRATIVE TO THE DEATH OF JAMES I.

ACCESSION OF JAMES I., A CHILD, AND CAPTIVE IN ENGLAND—REGENCY OF ROBERT OF ALBANY—BURNING OF RESEBY, AN ENGLISHMAN CHARGED WITH HERESY—THE CELTIC POPULATION OF THE HIGHLANDS AND THEIR RULERS—FINAL STRUGGLE FOR SUPREMACY BETWEEN HIGHLANDS AND LOWLANDS—THE BATTLE OF HARLAW—ITS HISTORICAL INFLUENCE—THE INVASION OF ENGLAND, CALLED THE FOOL RAID—DEATH OF REGENT ROBERT, AND SUCCESSION OF HIS SON MURDOCH—THE YOUNG KING OF SCOTS AT THE ENGLISH COURT—HOW TRAINED AND TENDED THERE—HIS MARRIAGE—THE FRENCH ALLIANCE—SCOTS AUXILIARY FORCE SENT TO FRANCE—THEIR LOSSES, SERVICES, AND REWARDS—RETURN OF THE KING TO SCOTLAND—PREROGATIVE NOTIONS BROUGHT WITH HIM FROM ENGLAND—HIS DEALING WITH THE REGENT AND THE HOUSE OF ALBANY—CONTEST WITH THE HIGHLANDS—FRENCH CONNECTION AND ALLIANCES—ENGLAND'S COMMAND OF THE NARROW SEAS USED AGAINST ROYAL VISITORS BETWEEN FRANCE AND SCOTLAND—SERIOUS ASPECT OF HOME POLITICS—ORGANISATION AGAINST KING JAMES—HIS UNCONSCIOUSNESS OF IT—THE COURT AT PERTH—MURDER OF KING JAMES THERE.

THE death of King Robert had no immediate influence on the country further than a change of name in the head of the state. The young prince was acknowledged as King James, while his uncle Albany continued to govern the kingdom.¹ There is little of moment to record until the year 1408, when there befell an event leaving a painful

¹ Wyntoun tells us that a Parliament held at Perth in June acknowledged the succession of King James, and continued Albany's regency (B. ix. ch. 26); but we have no record of the proceedings of that Parliament.

impression. There came into the country, it is said, for refuge from persecution, an Englishman named John Reseby, a follower of Wycliffe. He was tried by an ecclesiastical council, and, being convicted of forty heresies, was given over in the usual manner to the civil power, by which he was put to death by burning at the stake. Of the inquiry conducted by the churchmen there is of course no record, and nothing more is known to us of the tragedy beyond the story told by Walter Bower, the continuator of Fordun. But as Bower was a dignified clergyman—the Abbot of Inchcolm—the method in which he deals with the event is itself of interest. Of course the punishment of the heretic receives his high approval. Though he utters a long and vehement censure on the poor man's errors, he fails to make us acquainted with the substance of any of the forty items of heresy excepting one—the denial that the Pope is the vicar of Christ. The abbot's angry tirade is otherwise taken up with the Scriptural passages against presumption, and the substitution of human for divine institutions, having in this a considerable resemblance to the numerous attacks made in later times on "the apostasy of Rome." Some practical points of interest are visible through his declamation. He tells, with an evident sensation of horror, that the opinions and the books of Wycliffe are entertained by several "Lollards" in Scotland, but in extreme secrecy, by the instigation of the devil working on those to whom stolen waters are the sweetest. He observes of those in whom the doctrine of this wicked school takes root, that they seldom or never are restored to the bosom of the faith; and he, the author, had but rarely known—if indeed he ever had known—any such in Christian manner go to sleep in the Lord.

The truces with England continued off and on, the Scots borderers, without much respect for them, gradually pressing out the English occupancy, which still lingered in the counties nearest to England. Jedburgh Castle was taken, and was destroyed as having been more serviceable to the English invaders than to Scotland. The town of Roxburgh was destroyed, but the castle remained in

English hands. Fast Castle was one of the recoveries. This remote fortress, perched on a rock jutting from St Abb's Head into the German Ocean, after the country round it was recovered by the Scots, had remained in the possession of its English captain, who, thus isolated, set up on his own account, levying contributions or taking prey both by land and sea.

The year 1411 was renowned in Scotland by a great battle, arising out of dangers and difficulties of a new and special kind. It was a final struggle for supremacy between the Highlands and the Lowlands, called the battle of Harlaw. The conditions out of which it arose demand some explanation. We have seen how Scotland, as the name of a kingdom, came originally from the Irish Scots, who colonised the western coast; and how by degrees, as the kingdom became consolidated, the descendants of these western Scots were ever shy and troublesome as subjects of the King of Scotland, and were sometimes entirely independent of his rule. They were at one time swept into that great Norse confederation of maritime states which included, along with the Shetlands and Orkneys, Man and the east of Ireland, all occasionally under the sway of Norway. We have seen that when this marine empire was broken up, the Western Highlands of Scotland, and the islands opposite to their shore, were left a territory where the Celts predominated so far that their language became that of the district, while yet there was a strong element of Norse blood among the people. After the reign, as it might be termed, of Somerled, in the middle of the twelfth century, the command of the district was partitioned; and although the chiefs who ruled it had generally one among them predominant over the others, there was no distinct state with its central government. Sometimes it is the Lord of the Isles, sometimes the Lord of Lorn, or of Man, or of Kintyre, that appears to lead. So we find, in Bruce's difficulties, that John of Lorn was among his bitterest enemies, while he got some aid from a rival chief. During the War of Independence England naturally looked to the predominating power in these regions as an ally; and Edward Baliol, when he was

acting as King of Scotland, made alliances in the same quarter. Ere Scotland shook off the power of England, during David II.'s reign, these western regions, mainland and islands, seem to have become consolidated under the leadership of the Lord of the Isles. One of the last acts of King David's reign was an invasion—or rather a threat of invasion—to put an end to his claims of independent sovereignty, and subject his territories to taxation. He and a train of followers met King David at Inverness, and promised submission to the sovereignty, and to taxation, as holding lands that were an integral part of Scotland—promised, in fact, whatever was demanded. The engagements were put into proper feudal form; but the parchments went for nothing among the Celtic people of those regions, to whose nature the feudal system, with its gradations, its strictly limited rights, and its fixed hold on the soil, was hateful and scarcely comprehensible. Their one great craving was for immediate leaders to guide and command them. Such they found in the descendants of those Norse warriors who had been their masters of old. They lived under their chief, and did his bidding, knowing nothing of the Lowland king's Chapel of Chancery and the charters thence issuing, which professed to regulate the use and property of the surface of the earth, according to the claims of all, from the monarch to the cottar.

The parchment submission to King David thus made no difference in the power of the Lord of the Isles; he was as thoroughly obeyed within his own region after as before it. He bethought him of exercising the prerogatives of a sovereign in the Norman form, and executed charters to subordinate heads of clans—Macintoshes, Mackenzies, Macleans, and others—who were to hold lands of him as their lord paramount, as the King of Scotland had held domains in England. The alliances with England were repeated; and in the great truce between France and England in 1389, in which the allies of the high contracting powers were included, Scotland was a party as the ally of France, and the Lord of the Isles was a party as the ally of England. So near the time at present dealt with as the years 1405 and 1408, we have

commissions from Henry IV. to treat with the Lord of the Isles, who thus retained his diplomatic position.¹ Thus we have a government claiming dominion, over a district which only admits of that dominion fugitively, evasively, and while under pressure, and allies itself with the enemies of the government which professes to rule over it. When events occur which are but the natural results of such political conditions, we are sure to hear of "disturbances in the north," or another "rebellion of the Lord of the Isles," or the necessity for "strong measures" towards that impracticable chief. On the other hand, arguments might be found for holding that the Lord of the Isles was as well entitled to maintain the sovereignty of his western state against the King of the Lowland Scots, as the Government of Scotland to resist the encroachments of the King of England; and that the sole difference between the two struggles is in the success that fell to the one and was denied to the other. And, indeed, the answer to such reasoning can be but in this modified form: The dominion of the Lord of the Isles was never, like Scotland, a compact state with a Constitution. It uttered no distinct claim of independent sovereignty to Europe, either through the universal medium of the Papal Court, or in any other shape; and in fact it only showed its independence by rising against the King of Scots when his hands were tied or occupied elsewhere.

If ever there had been a Celtic-speaking people in any part of the country now known as the Lowlands of Scotland, the two tongues had now become separate by a clear line of demarcation. They were equally separated by incompatibilities and antipathies. The days were long past when the Celt was a leader in civilisation. The Goth had now got far ahead of him. The ways of the two also differed in this wise, that it became the practice of the one to till the soil and enrich himself, while it became the practice of the other to live idly and seize upon the riches

¹ *Fœdera*, viii. 418, 527. The Record edition, it may be mentioned, stops at the year 1377: hence the references since that date are from the two older editions, which have both the same paging.

of his Lowland neighbour when he could get at them. In 1384 an Act was passed for the suppression of masterful plunderers, who get in the statute their Highland name of *cateran*.¹ By this statute all men might seize caterans and bring them to the sheriff; and should they refuse to come to the sheriff, might kill them without having to answer for the act. This is the first of a long succession of penal and denunciatory laws against the Highlanders; each, as it was found to drive them desperate rather than to improve them, being immediately followed by another, in which the legislator's ingenuity was tasked to find some project still more cruel than any yet adopted.

No doubt there was ample provocation to retaliate on these mountaineers. They had already given some hints that they could be put to more dire purpose than the clearing of a stackyard or driving a herd of cattle. King Robert's brother, Alexander, was invested with the lordships of Badenoch and Buchan, parts of the inheritance of the Comyns. Besides Badenoch, with its strong Castle of Lochindorb, he got other Highland estates, and held the earldom of Ross in right of his wife. To add to his power, he was made king's lieutenant over the greater part of Scotland north of the Forth. He could thus command a vast Highland following for any purposes he chose to put it to; and his selection was such as to earn for him the title of the Wolf of Badenoch. Among other acts of tyranny and depredation, he seized on some lands belonging to the Bishop of Moray. For this he was excommunicated by the bishop. In retaliation, he brought a body of Highlanders to Elgin, the see of Moray, where they burned the cathedral, and committed other devastations. The Church was too powerful to endure this, and the perpetrator had to make satisfaction before he could get relief from his excommunication, and the troublesome civil disabilities following on it. This lord had an illegitimate son named Alexander, who afterwards held a con-

¹ "Qui transierint ut Katherani, comedendo patriam et consumendo bona comitatum et capiendo per vim et violenciam bona et victualia."
—Scots Acts (Rob. II.), i. 186, 187.

spicuous place, both in Scotland and France, as Earl of Mar. Whether or not he obtained any of the Highland property, he succeeded to his father's propensities and his influence over the Highlanders. With a large following, he descended from the Braes of Angus—the eastern slopes of the Grampians—on a grand plundering expedition against the agriculturists of the Lowland districts of Angus and Mearns. The landed gentry of this district hastily gathered for its defence, and met the invaders on the banks of the small river Isla. They fought, of course. The affair was a small one, but sharpened by the hatred to each other of two races, whose antipathy was all the bitterer that they were near neighbours and nominally under the same government. It is the earliest recorded example of the method of Highland warfare, such as it continued down to the latest of our civil wars. The method was a simple rush or bound upon the enemy, and a reliance on the impetuosity of the blow breaking his defences. If it failed to do so, the assailants instantly turned. If strong enough, they might make another rush; if not, they would disperse their several ways, and the war was at an end for the time. In this instance the rush was successful; the Lowlanders, mounted men and foot, were swept before the torrent. A chronicler gives an instance of the ferocity of the mountaineers. The Lord Lyndsay, the leader of the Lowland force, on horseback, had pinned to the earth with his spear one of them, who, twisting himself up, with his sword cut the assailant through all his defences to the bone, and fell back dead.¹ Such was the battle of Gasklune, fought in the year 1392.

Twelve years afterwards, their leader employed his Highland followers to more effective purpose still, so far as his own interests were concerned. In the Castle of Kildrummy, on the Don, lived the Countess of Mar in her own right—a widow of a year's standing. Stewart and his Highlanders stormed the castle, strong as it was, and made the lady captive. She married her captor, and cer-

¹ Wyntoun, ix. 14.

tain feudal ceremonies were publicly performed, for the purpose of making it known that the marriage, and the endowment of her husband with her estates, were acts of her own free will. The Wolf of Badenoch's illegitimate son now became Earl of Mar—a great feudal lord, with a high position in the state. His ambition rose above the leadership of marauding mountaineers; and, as we shall see, like other persons of inferior note who have risen by unworthy services, he became a zealous represser of those who had helped him. Early in the fifteenth century the earldom of Ross fell to an heiress, who retired from the world, and took the veil. This earldom had grown out of that Maarmorate north of the Moray Firth which we have often met with in early centuries as a nearly independent dominion in the hands of Norsemen. Although an earldom by charter, it still held but loosely of the crown. Donald, the Lord of the Isles, was married to an aunt of the heiress. He claimed the earldom, which would exactly fit into his other domains, and make him lord or monarch of about the half of Scotland. But the very reasons that rendered the acquisition so desirable to himself, rendered it the policy of the government to defeat him. On the ground that he was treated with gross injustice, Donald resolved on war.

In the summer of 1411 the agriculturists and burghers of the North were appalled by a rumour that a body of marauding Highlanders of unparalleled force—on the scale, indeed, of a considerable army—was coming upon them to pillage and burn, and conquer Scotland to the Tay. The force was reputed to amount to ten thousand. That might not seem overwhelming to a country which had dealt with the great English invasions, but it was the districts exempt from these that were threatened, and the invasion was, in fact, an attack in the rear. It took the country by surprise, and there was a hasty gathering of the gentry, with their tenants, and the burgher force of the towns. They could muster a small body only, but it was a high-spirited, efficient force, well armed. It was commanded by the Earl of Mar, whom we have lately found in different company. He had gained experience

in the French wars, and several of his followers possessed the same advantage.

Donald and his host came through the northern mountains to Benochie, near the Don, in Aberdeenshire. This hill is a sort of bastion of the Grampians abutting into the Lowlands. From its top one can see, towards the west, mountain after mountain rolling away upwards to the highest of the Grampians; on the other side spreads to the coast a plain as flat as Lincolnshire. Donald kept on the shoulder of this outstretching hill till he descended on the flat country, as if reluctant to leave the rough mountain ground to which his followers were accustomed. At Harlaw, on the flat moor edging up to the rise of the hill, he met those who had come to guard the entrance to the low country. The usual rush of the Highlanders was met by a compact body of men-at-arms and spearmen, who held their own firmly. The numbers of the Highlanders, however, enabled them, wasteful as they were of life, to dash, wave after wave as it were, against the compact little body; and the chances were, that by giving several lives for each one, the Highlanders might annihilate their opponents. These held out, however, and Donald had to retreat; there was no great victory gained over him, but he was stopped in his career, and that was everything.

So, on the 24th of July in the year 1411, ended one of Scotland's most memorable battles. On the face of ordinary history it looks like an affair of civil war. But this expression is properly used towards those who have common interests and sympathies, who should naturally be friends and may be friends again, but for a time are, from incidental causes of dispute and quarrel, made enemies. The contest between the Lowlanders and Donald's host was none of this; it was a contest between foes, of whom their contemporaries would have said that their ever being in harmony with each other, or having a feeling of common interests and common nationality, was not within the range of rational expectations.

It was a practice in Scotland to favour the heirs of those slain in the great national battles against England.

by exempting them from the feudal taxes on the succession to their estates, including the rights enjoyed by the superior during the minority of his vassal. The records of northern land rights show that this was extended to the families bereaved at Harlaw, and that the battle was even in this formal way treated as a national deliverance.¹

The battle of Harlaw has been abundantly celebrated in northern minstrelsy and tradition. It will be difficult to make those not familiar with the tone of feeling in Lowland Scotland at that time believe that the defeat of Donald of the Isles was felt as a more memorable deliverance even than that of Bannockburn. What it was to be subject to England the country knew, and knowing did not like. But to be subdued by their savage enemies of the mountains opened to them sources of terror of unknown character and extent. Hence, of the many men of rank and local mark who fell on that field, the people of the northern Lowlands long retained affectionate recollection; and they particularly selected for this tribute Sir Robert Davidson, the Provost of Aberdeen, the first affluent burgh which the invaders would have sacked—and the good knight, Sir Alexander Irvine, whose domains almost touched the field of battle, and whose square tower would have been among the first to endure a siege.

The next remarkable event is of a very different character—the foundation of the University of St Andrews. Of the influence of this and other features of intellectual progress it is proposed to take notice elsewhere. In the earliest years of the reign of Henry V. there was much appearance of dispeace between England and Scotland, but any issues of a critical kind were obviated by England's Continental wars. In 1416 there was profession of a great expedition from Scotland against England. Rox-

¹ Thus, in an inquisition concerning the succession of a certain Andrew of Tulidelf to his father William, it is found, “*Et licet minoris etatis existet tamen secundum quoddam statutum consilii generalis, ex privilegio concessio heredibus occisorum in bello de Harelaw pro defensione patriæ, est hac vice legitimæ ætatis.*”—*Registrum Episcopatus Aberdonensis*, i. 215.

burgh and Berwick were ineffectually attacked; and the army returned, after accomplishing so little either for profit or glory that the expedition got the popular name of the Fool, or Foolish, Raid.¹ On the other hand, a force under the wardens of the English marches swept and plundered the southern counties of Scotland, so that the usual results of a border contest between the two countries were reversed.

Robert Stewart, Duke of Albany and Regent of Scotland, died on the 3d of September 1419, eighty years old. He has a bad repute in history, which yet is able to set down nothing against him but suspicion. The heir of the throne was taken prisoner as if exactly to suit his projects, yet he could well say to any accuser, "Thou canst not say I did it." The negotiations for the recovery of the exile, after he had become King of Scots, all failed; while Albany succeeded in getting back his own son Murdoch, who had been taken at Homildon. He was specially exchanged for the young Earl of Northumberland. This was Hotspur's son, who had taken refuge in Scotland when the family were in extremity. He was treated as a captive in a sort of retaliation for the detention of King James. When it was found desirable that he should return to England and take his place as guardian of the North, people thought it would have been more in Albany's duty to have exchanged him for his nephew the king than for his own son; but it cannot be shown that he had any choice in this. Henry V. might not be so ready to part with the one as with the other. Of the great crime laid against Albany, the murder of Rothesay, we have not even the assurance that it was asserted at the time by persons who professed to know the particulars. It stands on the mere general assertion of one set of the chroniclers, supported by the dubious terms of an act of indemnity. For the seizure and restraint of the prince, which is not doubted, and is indeed proclaimed in the Act, there might

¹ "Cum dedecore ad propria redierunt," &c.; "et ideo vulgariter le *Foul-rad* vocabatur."—Scotichron., xv. 24. Fool (here spelt foul) was an adjective in old Scots, also in old English.

be abundance of justification. Here was a madcap youth sporting with the most dangerous and deadly of edge-tools, bringing royalty into scandal, making enmity and dissatisfaction by violent outrages and defiance of authorities, putting grave men in public authority to sore perplexity between their reverence for royalty and the duties of their office. It was a great public service that one strong-handed enough for the purpose should deal with the affair; and the act was all the more spirited and commendable that it bore down all impediment, from the affection of a doting father who would have let the mischief take its course. On the whole, had Albany held a greater place in history, he would have afforded excellent material for one of those inquirers whose delight it is to reverse popular verdicts, by proving that some name condemned to infamy belongs to one too great and good for the appreciation of the ordinary run of mankind.

His office of Governor passed to his son. From analogy with the practice of the period, we must suppose that this was done by an Act of the Estates; but if so no trace of it remains, and Murdoch appears to succeed to Robert, as if by hereditary descent, in the Governorship of Scotland, as well as in the Dukedom of Albany. That his father had arranged all this, and was quietly moulding a dynasty, has been argued from incidents of small account in themselves, such as his designing himself on public documents as Governor of Scotland by the grace of God. It is difficult to say what chances Murdoch might have had of superseding the elder house, had it not been that the struggle lay with a cleverer man than himself. Exile though he was, King James made his hand felt in the politics of Scotland. He was permitted to receive many visits from his influential subjects, and he made use of his opportunities. It is easy to suppose that there would be much reluctance at the Court of England to part with such a captive. No one could foretell the opportunities that might arise for turning the possession to use. But, however such considerations may have postponed his restoration, there are no traces of any ultimate projects to be founded on his detention.

From the first, in referring to him the old offensive phraseology about "our adversary of Scotland" was dropped; and after his father's death, he is ever respectfully addressed as "our beloved kinsman the illustrious King of Scots." In the treatment of his captive guest Henry V. showed a nature in which jealousies and crooked policy had no place. Had he desired to train an able statesman to support his own throne, he could not have better accomplished his end. The King of Scots had everything that England could give to store his naturally active intellect with learning and accomplishments; and he had opportunities of seeing the practice of English politics, and of observing and discoursing with the great statesmen of the day, both in England and in France, where Henry had also a Court. He would be sent back all the abler governor of his own people, and more formidable foe to her enemies, for his sojourn at the Court of England.

It was desired on both sides that before his return he should ally himself by marriage to the English royal family. It so happened that his heart was already given to Jane Beaufort, the daughter of the Earl of Somerset, who was the brother of Henry IV. She was thus a cousin-german of the King; there was no nearer choice; and so romance found the very match which policy would have dictated. It was a destiny uncommon among kings—to fall in love with a fair unknown damsel casually seen; to wed her as the one whose descent marked her to the politicians as the proper queen to bring with him to his kingdom; and finally to tell the story of his love in sweet verse worthy of a true poet. And yet James I. showed himself rather a practical man than a romantic dreamer. The wedding was celebrated with great splendour. He then moved northwards with a stately train, enlarged from his own country as he passed the border, and was crowned at Scone on the 21st of May in the year 1424. The only thing giving a mercenary touch to the arrangements was a demand of forty thousand pounds to pay for the expense of his maintenance; but the French wars made money a strong object with the English Court, and the fourth part—ten

thousand pounds—was remitted as a marriage-portion for the young queen.

We may take a glance at the external relations of Scotland before we follow the king home. A truce of seven years with England was part of the arrangement for his marriage and return. Henry V. had achieved his great career, and made the title of King of England and France no empty boast. The sense of French nationality was almost extinguished, and in some respects the English rule had been popular among a sadly-oppressed people. The natural insolence of the conqueror, however, showed itself, and a spirit of resistance and nationality began to find life among the French. It received great assistance from Scotland. The party which adhered to the Dauphin and the house of Valois kept up diplomatic relations with the old ally, and in 1419 arrangements had been made for conveying a Scots auxiliary force to France. They were to be removed in French galleys, and these the English Government gave directions to watch for and intercept in the narrow seas. In 1421, however, they were successful in carrying over seven thousand men—a marvellous achievement. These, under the command of the Earl of Buchan, gained the battle of Beaugé. It was the first success which turned the tide of victory; so that King Henry, like his great ancestor Edward I., was to die just as his conquest was beginning to slip from his grasp. There are few more terrible and unscrupulous beings than a baffled conqueror. Towards the Scots allies of his enemies Henry's actings were in sad contrast with his dealing towards their king. That king he had with him in France; and, on the ground that their master was in his camp or in his possession, he gave orders that all the Scots auxiliaries who might be taken should be hanged as rebels. In the battle of Verneuil they were nearly exterminated. But France, when restored to herself, was conscious of her debt of gratitude to those who had first stood in the gap. Many eminent houses arose out of the rewards granted to Scots adventurers. The celebrated Scots Guard was established—it is said to have begun in the few who survived the slaughter at Verneuil; and a right of common citizen-

ship was established between the two countries—a reciprocity, the value of which was greatly on the side of the poorer country.

The return of James I. makes a decided epoch in our history. The period of "the Jameses" naturally separates itself, like that of a dynasty, from the history before as well as that which follows it. But the king's return made a real and practical internal revolution. It becomes clear that a hand is at work, trained in the country of Doomsday Book and feudal precision, of common law and statute law. It is here, indeed, that the practical statute law of Scotland may be said to begin. The collections of "The Scots Acts" made for the profession go no further back—the statutes of earlier periods having been collected more for purposes of history than of practice. Compared with the early English statutes, they were a slovenly mixture of public laws, with local or private transactions, judicial decisions, and diplomatic notifications. In England the rule has been that, however old or forgotten, a statute is still a statute, which the courts of law must enforce until it is repealed. Whoever, therefore, could find anything to profit himself and damage his neighbour in some neglected corner of the statute-book, might use it as the discoverer of a will in his own favour may apply it to the alteration of a succession. By the less precise practice of Scotland, the statutory was affected by the consuetudinary law. It was active only if kept alive by usage, and might drop out of existence by desuetude. Hence, in going back to the most distant of the statutes in use, the collectors stopped at the commencement of King James's reign: there, however, they found a large harvest. He kept his Parliament busy, and statutes were passed in almost every year of his reign. Among the earliest of these were arrangements for promulgating the Acts themselves among the judicial and executive officers who had chiefly to deal with them, in order that they might not plead ignorance of the law; and this was accompanied by a piece of law reform passing beyond the reach of any light he could have obtained from England—the laws were to be promulgated in the vulgar tongue. A

commission was appointed to revise the old laws, such as the *Regiam Majestatem* and *Quonium Attachiamenta*, to amend what required amendment, and make clear what was to be counted law, so as to keep litigation free of "frivolous and fraudulent exceptions." This was something like an attempt to follow the strict English rule, and by Act of Parliament separate the laws still in existence from those in desuetude—to re-enact the one set and repeal the other.

There was a general survey and valuation of property for purposes of taxation. Owners of lands were required to show the charters or other written titles by which they held them, and there was a particular inquiry regarding what had become of all the property vested in the crown at the time of King Robert I. These measures were pressed, as it were, by repeated enactments, which no doubt conveyed the most depressing and irritating emotions to many potent territorial lords. There were enactments to restrain begging and vagrancy, and compel the able-bodied to work, imitated from the legislation which heralded the English poor-law. Weights and measures were regulated, and a standard of the coinage was established, so that it should be "in like weight and fineness to the money in England"—a precedent which it required courage for a King of Scots to cite. In England the common lawyers were then marked off as a peculiar people, following a sort of monastic life in their Inns of Court. Without endeavouring to imitate these, the legislature of the new reign adopted qualifications and restrictions by which those entitled to practise in the law were separated and identified. Among these regulations is one which has ever been an honourable peculiarity of Scotland, and is expressed in a sympathetic tone not in keeping with the formalities of the English draftsmen. It provides that "if there be any poor creature that, for default of cunning and dispenses, cannot or may not follow his cause, the king, for the love of God, shall ordain that the judge before whom the cause should be determined purvey and get a lele and a wise advocate to follow such poor creature's cause."

After this and much other legislative business was transacted, there was an attempt to assimilate the Parliament itself to that of England. The lesser barons were relieved from attendance, provided they sent "commissioners" or elected members—two for each shire, except Clackmannan and Kinross, which were to have one each. In the same Act there comes up once for all the English "Speaker" and the term "Commons," in a provision that the commissioners are to choose "a wise and an expert man called the common Speaker of the Parliament, the whilk shall propose all and sundry needs and causes pertaining to the Commons in the Parliament."

Some of the early statutes of his reign are evidently the fruit of the king's observation of the causes of the military superiority shown by England in the Continental wars. He did not neglect any experience that might help him in improving the military organisation of the people. The arms and armour of those liable to attend the feudal musters were rearranged, and wapenshawings appointed. Homage was paid to the enormous value of the English bowmen in war, and an attempt was made to organise a system of parochial archery schools over the country.¹

While all this was going on the king had business more personal to himself on hand. He had taken possession of his throne quietly and meekly, as one who was glad to obtain his own at last, and to ask no questions why or by whom it had been so long kept from him. But he was biding his time, and making inquiries for his guidance. It was eight months after his restoration—and if there had been any alarm at first, it seems to have lulled and died away—when suddenly, at one blow, the king's cousin Albany, with two of his sons and twenty-six of the leading nobles, were arrested. This was at Perth, where there was a Parliament, at which they were in attendance.

¹ Immediately following, in an Act for the discouragement of the game of football, is one providing "That all men task them to be archers, fra they be twelve years of eld, and that in ilk ten pound worth of land there be made bow-marks, and especially near paroche kirks, where upon haly days men may come, and at the least shoot thrice about, and have usage of archery."—Act. Parl., ii. 5, 6.

Albany and his sons were put on trial, but unfortunately no record of the proceedings has survived to tell us the particulars, or even the general nature of the charge against them. They were found guilty, and executed on the heading-hill of Stirling. The youngest son of Albany took flight to the Highlands, and brought a body of marauders to trouble the western Lowlands, whence he escaped to Ireland, where he founded a dynasty. The twenty-six subordinate captives were set at liberty. We can only guess that the motive for apprehending them was to deprive the house of Albany of support, or to show the aristocracy that their king was alike powerful and merciful.

The king had another set of enemies to deal with requiring less ceremony. Having seen how England dealt with Wales—he was, in fact, for a time a fellow-prisoner with Owen Glendower—he resolved to extinguish the farce of the independent sovereignty boasted by Alexander of the Isles. In 1427 he held an assemblage by way of a Parliament at Inverness, to which he summoned Alexander and some fifty chiefs—some of them very powerful, such as Angus Duff, who, as the chroniclers say, was general of four thousand men ; and Kenneth More Angus of Moray, and Mackmakon, who each commanded two thousand. They were so infatuated as to attend, and were seized, manacled, and committed to separate dungeons. It is useless to denounce such acts ; there was no more notion of keeping faith with the “ Irishry,” whether of Ireland or Scotland, than with the beast of prey lured to its trap. Those it was deemed fitting to get rid of were put to death. Whether there was the ceremonial of a trial nothing remains to tell. Alexander, at all events, had some blood in his veins that entitled him to consideration ; his grandmother was a daughter of Robert II. On this account, as it is said, he was spared, on making all proper submissions. But the chief did not like the whole transaction. In historic phrase, he abused the clemency of his sovereign, and again raised the standard of rebellion. He collected an army, and destroyed Inverness, the place of his humiliation. Turning by Lochaber to march on the Lowlands, he found that he had to do with an enemy too

active to wait there for him. The king carried up to the mountains an army so well found that Alexander's followers would not meet it, and dispersed in Highland fashion. Hard pressed, Alexander found that there was nothing for it but to submit. He did this in a manner that gave some surprise, and was perhaps founded on some Highland custom. When the Court were at worship in the Chapel of Holyrood, he appeared before the sanctuary of the high altar, nearly destitute of clothing, and, kneeling, presented the king with a naked sword. He was committed to Tantallon Castle.

But his cause, or that of his dominion, was not utterly lost. When a head or leader is removed from any Highland population, they find another to hold his place. So Donald Baloch, a relation of the captive prince, levied an army and marched to Lochaber in 1431. There, where the former Highland army had been dispersed, he defeated a force led by the Earl of Mar—the victor at Harlaw. This was a humiliation which a prince like James could ill bear. An extraordinary tax was granted “for the resistance of the king's rebellors of the north,” a nomenclature reminding one of the ever-recurring denunciations of “his Majesty's Irish rebels” in the English state papers. The tax was to be such that “in all lands of the realm where the yield of twa pennies was raiset, there be now ten pennies raiset.”¹ It appears that on the supply thus collected, the king made a great expedition or progress into the Highlands. The accounts of it are indistinct, but they bear that the chiefs crowded round him to offer homage, or whatever other form of submission he desired; and this would be the natural result if his force were powerful.

Those who deal in the annals of such a period become familiar with violent deaths, slaughters in the field, acts of bloody vengeance, and cruel punishments. Yet the continual occurrence of violent deaths will not abate the revulsion felt on the occasions—rare though these may be—when they pass out of the field of violence, and fall on

¹ Act. Parl., ii. 20.

peaceful men, teaching what they think the truth. Again, in the year 1432, we come to the burning of a heretic as an event utterly isolated from the usual current of history. The victim was a Paul Cwar, a German, believed to have come from Bohemia to propagate the doctrines that had been preached by John Huss and Jerome of Prague. All that we are told of him personally is that he professed to be a physician, and to be travelling and visiting in the practice of his profession. The churchman who records his burning takes occasion to enlarge on the characteristics of Taborites, and other Bohemian heretics ; but people will seek their information about these from better sources.¹

After the conclusion of the truce in 1431, the English Government, making a last struggle for the maintenance of their power in France, were very anxious for peace with Scotland. We have no authentic record of their offers. The chronicles speak of their proposing terms which even included the abandonment of Berwick and Roxburgh. It is difficult to believe in the offer of such terms, and still more difficult to believe in their rejection, although this is attributed to the chivalrous motive of keeping terms with France. Events took a course drawing Scotland closer to France and apart from England.

Within the first year of his reign a daughter was born to King James ; and it was agreed that, at a fitting time, she should be betrothed to the young Dauphin of France. In 1434 she was thirteen years old ; and it was resolved that the right time had come for sending her to the land where her lot was to be cast. Accordingly she was conveyed across the Channel by as gallant a maritime escort as Scotland could afford. In the passage between Scotland and France every vessel had to deal in some way or other with the difficulty of England's power in the narrow sea, unless the voyage were made, as it sometimes was, westward by the Atlantic. Then, and for long afterwards, a maritime superiority had ever a piratical tendency. There was something so tempting in seizing an opportunity for its use that no treaties or international laws were a

¹ *Scotichronicon*, xvi. 20.

sufficient restraint. Though it was a time of truce between England and Scotland, yet an English expedition was fitted out and vigilantly watched the Scots fleet, for the purpose of kidnapping the princess. The attempt met with something like the retribution of a romance. The English fleet, while watching for its prey, found casual occupation in picking up some Netherlands vessels laden with wine. Just as they had made this desirable acquisition, however, a Spanish fleet came up and took it from them. The English fleet had to seek safety; and keeping in such circumstances but an imperfect watch, the Scots carried their princess safely into La Rochelle, and she was married to the Dauphin, afterwards Louis XI. This, and some other incidents, made bad blood between England and Scotland; but no serious contest followed. King James began a siege of Roxburgh, as if he were determined to drive the English out of what they continued to hold on the north side of the border; but he suddenly stopped the siege, having, as it would appear, serious calls on his attention elsewhere.

There were signs of mischief abroad that could not but create anxiety, but neither the king nor his close advisers seem to have known, or even suspected, that there was an organised conspiracy for putting him to death. In seeking out the effective motive for such a crime, had only one cause of enmity to the king been known, that alone would have been unanimously set down as the cause of the tragedy; but the inquirer is confused by finding several causes, while to no one of them in particular has the origin of the tragedy been separately and distinctly traced. The king was popular with the country at large. The legal and parliamentary practices brought with him from England were favourable to the protection of the property, industry, and civil liberty of the humbler classes. In so far as they were so, they tended to check feudal powers which had grown in the times of war, and of the confused and feeble government of later years. The new government was of that strong impartial kind which a waxing feudal power hates. The king's strict inquiry into the titles to feudal domains was very unwelcome, and he

had done things practically to frighten many of the great lords about the preservation of their territories.

We have seen how the Earl of March lost all his wealth and feudal power by a mistake in shifting his allegiance to England. This was in the year 1400. Nine years afterwards, he negotiated with Albany for a restoration, and was reinvested in such of his estates as could be got out of the gripe of the Douglasses. These his son inherited, but his title came under question. It was said that the regent, Albany, had no power to reverse a forfeiture for treason. All the March estates were again declared to be annexed to the crown. This was done after a full hearing of all that could be said for the holder of the domains, and with full parliamentary formality, as the decision of the three Estates.¹ It was held, however, to be an example of the special policy which influenced the king's government.

The family of March retired to England, and were not personally implicated in the coming tragedy; so that any influence which the loss of their estates had on that event must have arisen from the alarm felt by others who might suffer from like proceedings. Another case of forfeiture seems to have increased the alarm. The earldom of Strathearn belonged to the eldest son of Robert II.'s second marriage. He left a daughter only, who was married to Sir Patrick Graham, and carried the earldom to their son, Malise Graham. It was maintained that this was a male fief which could not be carried by the female line. The earldom was forfeited and transferred to the male heir, Walter Stewart, Earl of Athole.

It is to him, though thus benefited, that we must look, however, as the person whose position drew to him the darkest suspicions. He was a brother of the David who had been made Earl of Strathearn, and a son of Robert II. by his second wife, Euphemia Ross. We have seen how the question stood between the two successive wives, Elizabeth Mure and Euphemia Ross, and the conditions under which the children of the former were deemed ille-

¹ Act. Parl., ii. 23.

gitimate by the canon law, though all available means of rendering them legitimate in the eyes of the world had been adopted, and their title as successors to the crown had been ratified by statute. The Earl of Athole was a very old man, and it is said to have been his grandson who chiefly stirred this question. The question, however, is further perplexed by this, that Malise Graham was descended from the eldest son of the second marriage, and would be heir if the children of the first marriage were disqualified. Strathearn was taken from him because it had come through the female line, but there was ample precedent for the throne so descending, if the parliamentary settlement were discarded.

However all this may have been, the real chief worker of the coming tragedy was neither of these persons, who might prefer claims to the crown, but Sir Robert Graham, who had no such claim. He was yet connected with one of them, but with that one which had no concern in the affair—he was the uncle of the Earl of Strathearn, as brother of him who had married the granddaughter of Robert II. It is said that Graham forcibly expressed himself in Parliament about the encroachment of the king on the territorial aristocracy, and denounced him as a tyrant. Whether for this or other things, he became a ruined and banished man, and sought refuge among the Highlanders.

Whoever were the heads, here were the hands for any act of violence. They would receive with eminent satisfaction a fugitive from the law. On them the sovereign had no claims: in their own estimate, they received nothing of him but stripes, and owed him nothing but vengeance. If Sir Robert Graham felt the difficulty of bringing his wild followers to the spot where his purpose was to be effected, the king himself made this easy by taking up his Court in Perth, at their very gate. It was the practice of the Court to quarter from time to time on the affluent religious houses; and the king resolved to distinguish the Monastery of the Black Friars in Perth, by holding his Christmas festivities there in the winter of 1436, and remaining for a period as their guest.

He had ample warning of danger, for Graham had denounced him as a tyrant worthy of death—an enemy of the human race, who should be killed out of hand by the first man who met him. Portents and dreams and prophecies were rife among the attendants of the Court. A weird Highland woman, who might have had better foundation for her knowledge than the second-sight, was said to have prophesied the coming tragedy, and in vain to have pressed her warnings on the victim. James was of a courageous nature, and it was an age when the apprehensive led very wretched lives. He would have his sport out of all the portents, and some of his merry jests concerning them down to the last were held in remembrance.

It was on the evening of the 20th of February. The royal party had broken up, and the king, disrobed, and wrapped in what would now be called a dressing-gown, lingered before the fire of the reception-room, chatting with the queen and her ladies, when ominous sounds were heard. Three hundred of the wild Highlanders were breaking their way into the monastery. The ease with which they did so shows us how slight were the guards and protections surrounding royalty in that day. As the sounds approached, the party within looked to the fastenings of the doors, and found that they had been tampered with by treacherous hands within. The next glance was to the windows, but these were too well secured to permit escape. The king had none but women round him; and, praying these to hold the entrance as well as they could, he staved up a flag or board of the flooring, and descended into a vault below. The poor women could offer small resistance to the coming force. It is recorded of one of them—a Douglas—that, finding the great bolt of the chamber-door gone, she thrust her arm through the staples. This poor impediment was easily crushed, and but served to give a touching addition to the traditions of feminine devotion.

The place into which the king had descended was a cloaca, or sewer. As fate would have it, there had been an opening to it by which he might have escaped, but this had, a few days earlier, been closed by his own order,

because the balls by which he played at tennis were apt to fall into it.

The murderers rushed like a tempest through the buildings, and, not finding their victim, were fain to believe that he had escaped. There was one, however—the same, apparently, who had destroyed the fastenings—who suspected what had happened; and when the chamber of reception was examined, it was found that the floor had been newly broken. It was short work to tear open the flooring, and then their victim stood before them. When he spoke of mercy, Graham charged him as a cruel tyrant, who never showed mercy to others—nay, not to those of his own blood—and should now receive none. James was a strong man, and brave, like all his race. Though unarmed, he grappled with those who descended so fiercely that they bore the mark of his gripes to the scaffold. There were sixteen stabs in his body when it was taken up.¹

The poet Drummond tells us that “He was buried in the Charter-house of Perth, which he had founded, where the dublet in which he was slain was kept almost to our time as a relic, and with execrations seen of the people, every man thinking himself interested in his wrong.”²

¹ There is fortunately an account of this murder—undoubtedly by a contemporary, and to all appearance prepared by one who had the best information obtainable at the time. It is entered thus in Nicholson's *Scottish Historical Library* (p. 157), as “A full, lamentable Chronycle of the dethe and false murdure of James Steward, last King of Scotys, nought long agoone prisoner in Englande yn the Tymes of the Kings Henry the Fifte and Henry the Sixte, translated out of Latyne into oure modern Englishe tong bi your simple subject, John Shireley.” The translator says he finished his work in the year 1440. This tract has been three times printed—first, as an appendix to Pinkerton's *History of Scotland* from the Accession of the House of Stewart; second, in vol. ii. of the collection called *Miscellanea Scotica*, printed at Glasgow in 1818; third, by John Galt, as a historical illustration to his novel of *The Spaewife*.

² Works of William Drummond of Hawthornden, p. 17. It has been discovered that, in 1443, a knight of St John of Jerusalem brought his heart from Rhodes, and showed it to the monks of the “Charter-house” or Carthusian Monastery on the day, as it would seem, of the Purification. “There is a payment, ‘Roberto Nory in

partem expensarum militis sancti Hieresolomitani de Rodis deferentis cor Domini Jacobi primi domini regis moderni genitoris ad regnum tempore purificationis, et exhibitionis ejusdem cordis monachis Domus Cartusensis de Perth, ubi corpus dicti domini regis sepelitur.'” This is referred to here, not because it can be offered as a clear and instructive statement, but because the most learned of Scots genealogists, who found it in the Rolls of the Customs in the Register House, administers a scolding to Mr Fraser Tytler and the whole tribe of historians for not making “any intimation” of it. But there must be a licence to pass over such fragmentary scraps, unless their tenor can be explained and rendered significant. I cannot admit that the discoverer of this item of account has given a correct explanation of it when he speaks of “This curious and solemn ceremony in regard to the heart of James I., or of its consignment apparently to the Knights of Jerusalem, and return to Scotland, before its purification and hallowed exhibition at the place of sepulchre.” As appropriate to this great discovery, and his judicious use of it, the author continues: “What we want in a history of Scotland are *solid* original facts, not flimsy or commonplace inferences from those that are known.”—Inquiry into the Law and Practice in Scottish Peerages, by John Kiddell, Esq., Advocate (1842), p. 262.

CHAPTER XXVIII.

JAMES II.

FATE OF THE MURDERERS—AN INFANT KING—HIS CORONATION AT HOLYROOD—PLOTS FOR HIS CUSTODY—KIDNAPPED BY CRICHTON—THE HOUSE OF DOUGLAS—THE CHIEF BROUGHT TO EDINBURGH AND PUT TO DEATH—EFFECT OF THIS—SECRET SOURCE OF THE POWER OF THE HOUSE—CONNECTION WITH FRANCE—CONFLICT WITH THE CROWN—INFLUENCE OF THE CRICHTON FAMILY—MARY OF GUELDRS—THE DOUGLAS BAND—TRAGEDY OF THE TUTOR OF BUNBY—SLAUGHTER OF THE DOUGLAS IN STIRLING CASTLE—GATHERING OF THE SUPPORTERS OF THE HOUSE—PREPARATIONS FOR CIVIL WAR—THE TIGER EARL OF CRAWFURD—BATTLE OF BRECHIN—GREAT CONTEST WITH THE HOUSE OF DOUGLAS—ITS OVERTHROW FOR THE TIME—A PARLIAMENT, AND ITS DEALINGS WITH THE DOUGLASES AND OTHER MATTERS—INFLUENCE OF THE WARS OF THE ROSES IN ENGLAND—EXPEDITION TO RETAKE THE TERRITORIES CAPTURED BY ENGLAND—SIEGE OF ROXBURGH—DEATH OF THE KING.

THE murderers found immediately that their crime was a blunder. He who, in the light of their selfish interests and animosities, was a tyrant, was to the nation at large a popular king. The stability of the throne and the dynasty appeared in the accession without impediment of the murdered king's son, a boy of six years old. The cry of vengeance had arisen so speedily, that from the roused citizens of Perth the murderers escaped with difficulty to their refuge in the mountains. The chase after them, however, was too hot and determined, to give them a chance of escape; and there are significant vestiges of the methods resorted to in the pursuit, in evidence of certain rewards given to Highland chiefs who made themselves useful on the occasion. A group of the principal actors sufficient to

glut public vengeance seems to have been gathered. The records of their trials, like all others of that age, are lost, and we have nothing but accounts, all too horribly distinct, of the method in which they were put to death—for of course that was the only conclusion that could be to their doom, though it was protracted as long as life would hold out against powerful torture. In fact, the accounts we have of the death of these criminals by torture, seems to exhaust everything that the skill of the panderers to the cruel lust of the Roman emperors could devise, and everything that the imagination of the early painters, who delighted in the representation of martyrdoms, could imagine. It is necessary to keep in mind the toughness of northern constitutions to understand how the human frame supplied life enough to endure it all. Nailing to crosses and trees, mutilating, tearing with pincers, fire, pressing with weights and squeezing with thongs, so that the contemporary observer, who had a loyal horror of their deeds, could not describe the expiation without some natural relents, feeling the process "full sick and piteous to look upon,"—"that it was to any mankind too sorrowful and piteous sight, and too abominable to see."¹

The interest of the retribution centres in Sir Robert Graham, the demon hero of the tragedy. In the little we know of this man there are glimpses of a sort of terrible grandeur. He was reputed to be a man of scholarly accomplishments and great learning. He was defiant to the last, and spoke his defiance so long as his lips had utterance, but it was not the expression of the mere impulse of brute obstinacy. He said there was no use of denying that he was guilty according to the notions of those who judged him, but he was righteous in his own esteem. He had slain the enemy who would have slain him and many others. He rose even to a far higher tone of justification than this, for he was supported by the hallucination that he was a martyr in a noble cause, and he proclaimed to the crowd that the day would come when a grateful posterity would bless his memory because he had rid the world

¹ Contemp. Account, *ut sup.*

of a tyrant. But still more distinct marks of strong and strange peculiarities of character were in an appeal made to his torturers—an appeal not to their compassion, but to their fears; it is thus reported: “I doubt me full sore that an ye continue thus your torments upon my wretched person, that for the pain ye will constrain me to deny my Creator; and if I so do, I appeal you before God the high and chief Judge of all mankind after their deserts at the universal doom, that ye been the very cause of the loss of my soul.”¹

Graham, with one group of his assistants, suffered at Stirling; Athole and his grandson, with some others, were tortured to death in Edinburgh. We have seen their royal descent and claims, and some derisive accompaniments of the old man’s punishment evidently point to the family’s expectations. A paper crown was put on his head when he was tortured, and an iron crown was put upon the same head after it was removed and stuck on the shaft of a spear in the High Street of Edinburgh. The old man said he had no concern with the murder, but he admitted that he knew it to be in design, and said he had concealed this knowledge because he would not betray his own grandson to the royal vengeance.

There is some significance in finding that the coronation of the young king was in Holyrood, instead of Scone, where his ancestors had been inaugurated as far back as record or tradition traced them. The banks of the Tay had been shown, on startling evidence, to be too near the Highlands for safety. Yet it can hardly be said that the poor boy on whom the crown of Scotland alighted was much safer in the heart of the Lowlands. To get possession of him, as the symbol of regal power, was the aim of the ruling houses of the day, and the method in which they put their policy in practice was by kidnapping him. The queen, after the murder, seeking a place of safety for herself and her child, found it in the Castle of Edinburgh. Sir William Crichton, the Chancellor, was governor of the castle. His is not to be counted one of the governing houses of the day; but

¹ Contemp. Ac.

the custody of the king gave him opportunities to advance his power, and he was a man who knew how to use them.

Beginning, however, rather abruptly to isolate the infant, to the alarm of the mother, she outwitted him, and spirited away the child. She announced her intention to make a short journey, under conditions so sacred that her motions must not be too curiously scrutinised. She was to make her pilgrimage to the shrine of Our Lady at Whitekirk, in East Lothian. This was a shrine illustrious in its day, having a special national sanctity as an avenger of English sacrilege, but now forgotten even in tradition.¹ The queen's selection was made, however, not on account of specialties in the character of the sanctity peculiar to this shrine, but because the natural way of reaching it was by going on shipboard at Leith. She had with her certain bales of luggage, in one of which her infant was concealed. When her vessel was cleared of Leith harbour, instead of sailing eastward, the head was turned to the west, and thus the queen conveyed her charge by water to Stirling, where Sir Alexander Livingston commanded.²

This incident made Livingston the rival of Crichton, and, for a time, a rival in the ascendant. The Earl of Douglas had been appointed Lieutenant or Governor of the kingdom, and his power was sufficient to have kept down all such rivalries; but he died in 1439, leaving a son only seventeen years old to succeed him. Thus for a time was postponed the career of the house of Douglas in Scots history. In 1439 the queen married "The Black Knight of Lorn," probably for the sake of a protector in the midst of the strong and unscrupulous men who were pulling at herself and her child. It certainly, from the aspect of events, does not appear that she was at first successful in procuring protection, for we find Livingston, as master of the situation, imprisoning both her and her husband. He

¹ See above, ch. xxv. There is still an old church at Whitekirk, with some Gothic work about it, and, what is more rare in Scotland, the ancient barn in which the ecclesiastics connected with the establishment had stored their grain.

² Leslie, p. 13.

afterwards obtained a remission or pardon for the act. These things can be only briefly told as facts, for the objects and policy connected with them cannot be discovered with sufficient clearness to be set down.

Crichton, as governor of Edinburgh Castle, was still a powerful man, and he made a successful stroke. Watching his opportunity, he took a force out to Stirling, and kidnapped the king as he was taking his morning exercise in the royal park. The boy was taken to Edinburgh in a sort of triumph, as rescued from his captivity in the hands of a traitorous subject. Thus again Crichton was able to dictate to his rivals. He was not unreasonable, however; and as it was desirable that the king should be under the protection of Livingston, we are told that Crichton was induced to submit to this arrangement, in consideration of certain rewards. The character of these is not stated, but there is no doubt that at this time the house of Crichton began to wax powerful, and little doubt that it profited by a tacit compact or partnership with Livingston.

Perhaps, however, more than by his own aggrandisement, the Lord Crichton of that generation became conspicuous for the manner in which he removed a great impediment to his ambition, the aim of which was to rise through his influence in the court of the young king.

We have seen that the earldom of Douglas fell to a youth but seventeen years old. He became conspicuous by his haughtiness, extravagance, and display of power. It was reported that a thousand men-at-arms, many of them of knightly rank, rode with the Douglas. He kept a household that in princely expenditure made the royal establishment seem meagre and provincial. No one appeared for the young man at the high courts of the king's Parliament, or on any of the other occasions on which noble subjects did duty and homage to the throne. It was said, indeed, that he more affected having a sort of Parliament or great council of his own.

It was resolved by Crichton and his friends that the young Douglas should be put to death. He was invited, with great show of distinction and courtesy, to visit the young king in the Castle of Edinburgh, and he was so un-

conscious of treachery that he brought his brother with him. This both surprised and delighted the plotters, who seem to have been afraid that any attempt to lure both into their trap might have raised suspicion. They were both beheaded. Some form of trial there must have been, but, like all others of the age, it has been lost. The chroniclers tell us that the knowledge of their doom came upon them while, in unsuspecting security, they were enjoying the royal hospitalities, and that it was symbolically announced, according to a practice of the time, by placing a bull's head on the board.

This cannot be viewed as an act of private vengeance, arising out of family feuds. It was an affair of state, and must have had something to justify it as a piece of policy. A young man, inflated by pride because he finds himself rich and powerful, forgetting his position, and playing fantastic tricks, could not be a sufficient motive for such a deed ; and we must look for its causes into the position of the house of Douglas as a power in the state. Undoubtedly it was at that time the most popular name in Scotland. The Douglasses had endeared themselves to the people by bearing a hand—and that a powerful one—in almost every contest which had gone to the securing of the national independence and the enhancing of the national glory. They were children of the soil, who could not be traced back to the race of the enemy or stranger. Whatever may have been their actual origin, they were known as rooted in Scotland at the time when the Norman adventurers crowded in. The Douglas was the first to throw himself into the national cause as a follower of Wallace. "The good Sir James" was the good King Robert's right-hand man, intrusted with the pilgrimage to convey his heart to the war in Spain. The achievements of the hero of Otterburn would alone have made a name illustrious ; and the smaller affairs, in which it was ever a Douglas that was the victorious champion of Scotland, were countless. It was the Douglasses fighting for their own land that redeemed the border counties from England when Edward III. had taken them as the gift of Edward Baliol. And here lay one of the great sources of their

power; for it was not becoming, even if it were quite safe, to deprive such heroes of the spoil won by their sword and their spear. The fall of their rivals of March increased their territorial influence; and at the time we have reached they were lords of somewhere about two-thirds of the rich district of Scotland lying to the south of Edinburgh, while they had estates scattered here and there farther to the north.

We have seen how the body of Scots under the Earl of Buchan served in France. It was deemed that a great accession to the national cause would be obtained if the services of Archibald, Earl of Douglas, with such a force as he could bring with him, were secured. But he was too great a man to be expected to come as an ordinary stipendiary, however high might be the rank and liberal the remuneration assigned to him. An embassy was sent, with Buchan at its head, to treat with him, and Douglas entered into alliance with France, by an instrument dated in October 1423. The slaughter among illustrious houses in France at that time put great store of territories and titles at the disposal of the crown, and in these the Scots adventurers amply partook. Douglas had for his share several domains, such as the countship of Longueville. But these were trifles beside his great reward in the dukedom of Touraine—one of the old provinces which held of the crown, yet was virtually a sovereignty. Within it, and holding of the duke, were many lordships and feudal domains fit to endow considerable houses in the duke's native country. Probably there never was a coronation of a king of Scots so splendid as the inauguration of the new duke in his capital, the ancient city of Tours, where he went in procession through streets hung with tapestry and strewn with flowers, to be received and welcomed by the archbishop and canons in the cathedral. Such was the culmination of the fortunes of the house of Douglas.

We do not, however, see all that made the house of Douglas formidable to that of Stewart until we get at a fact of a nature to give an aim to the vast material powers in the hands of this house. They had more than one recent alliance with royalty; but this we may pass over,

and look to genealogical points, which will carry us back to the group of competitors who solicited the crown of Scotland from Edward I. We have seen that the claim of the Comyns was subsidiary to that of Baliol at the time of the competition. Had there been an opportunity for that Red Comyn who was slain at Dumfries stating his claims, these would have been strengthened by two facts—the one, that Baliol and his son Edward had resigned the crown; the other, that he was the son of Baliol's sister, and thus took up the rights so resigned. Archibald Douglas, the brother and the heir of the good Lord James, married a Dornagilla, reputed to be the sister of the Red Comyn, and the daughter of Baliol's sister.¹ She thus brought the claims of her slain brother into the house of Douglas; but by the time we have now reached, these claims had been signally strengthened. They no longer rested on such a questionable foundation as the renunciation of their right by men still living. The house of Baliol was extinct, and all its claims were believed to vest in the representative of the Comyns. Thus the house of Douglas was descended from the elder daughter of William the Lion's brother—the house of Stewart from the younger. During the century and a half which had passed since King Edward, sitting as lord superior, had decided that the line of the elder should be exhausted before that of the younger could succeed, this doctrine had made progress as the only solution of the problem of hereditary succession. It is the existing rule of succession to the crown of Britain. It could not be but that such a belief must nourish hopes in the house of Douglas, and become the natural centre round which their wealth and influence gathered. And here it must be noted that for such a tradition holding influence, it is not necessary to suppose that the genealogy on which it rested was true—it suffices that it was believed. As the progress of opinion tended towards what was afterwards called the "divine right" of hereditary descent, there was a tendency to fortify all existing powers by genealogical support. When

¹ Douglas's Peerage, by Wood, i. 423.

a great house was strengthening itself to claim a dominion, part of its policy was to find genealogical support for that claim. When the Guises were plotting for supremacy in France, a rumour went forth that they were the lineal representatives of Charlemagne. Had they succeeded in their revolution, the accepted genealogies of the day would have loudly proclaimed, as the most important element in all secular knowledge, the details of this descent, and it would have obtained general assent, its falsity becoming only known to the students of genealogy, not as a part of statecraft, but as an exact science. Had the Douglasses been successful, the chroniclers would have defended their right, and impugnors would have been silenced. We have seen how open the house of Stewart itself has been to the assaults of the scientific genealogists. But while it reigned it had power to impress genealogy as well as other ministering influences into its service.¹ In the supposition that they must have

¹ That great genealogist Lord Hailes wrote a powerful dissertation, showing that the succession to the house of Douglas had gone into a wrong line with the accession of the third earl in the middle of the fourteenth century, and that the whole strange career of the Douglasses from that period down to 1488 is due to a genealogical blunder. The man who, both by official position and full knowledge, is best entitled to settle such points, says it is a "perfectly ascertained fact that the third and all subsequent Earls of Douglas were descended, not from the brother of the Good Sir James, who was supposed to have married Dornagilla Comyn, but illegitimately from Sir James himself;" and that "the mother of the Earl of Douglas, instead of being the fabled Dornagilla, was Beatrice, daughter of Sir David Lyndsay of Crauford." The Lyon King-at-Arms in *Macmillan's Magazine*, June 1867, p. 107. For the reasons stated in the text, however, the knowledge that the theory of the royal descent of the Douglasses had flaws in it more than one, does not make the reliance on it less important to history. The investigations of genealogists of the strictly scientific school reveal curious cross influences in matters of descent and representation. They have often to show how the imperfect development of their science taught it to give strength to false claims; on the other hand, they reveal to us the influence, both in social conditions and in history, of the system of records which came in with the Normans. The feudal rule, that all territorial estates must be held of the sovereign, and that the evidence of that tenure must be in writing, is substantially the material of which the science of genealogy has been made. To this store of material an eminent contribution was made by the

carried their title through the claims of John Baliol, they would have had perhaps to encounter one of the popular fallacies that give legitimacy to the stronger. The remembrance of Baliol was so odious, that, as we have seen, one of the Stewarts had to abandon the name of John because it had been borne by that man. On the other hand, the memory of Bruce was worshipped with a devoutness which it is difficult now to realise. A tradition kept obstinate hold on the Scots national mind that Baliol had basely sold the independence of Scotland for the right of calling himself king, and that from the beginning of the dispute the Bruce of the day had nobly asserted that he would never accept of the crown of Scotland but as that of an independent sovereignty. Such was the story, endeared to the national mind by traditions, ballads, and chronicles. Sober history took it up, and made it secure and respectable. It spread through historical literature at home and abroad; and it is believed to be read at this day with implicit reliance by a large portion of the reading community, although we have seen how utterly it is falsified by historical facts.

It has puzzled historians that a measure so thoroughly strong as the execution of the head of the house and his brother should not have been followed by the seizure of the Douglas estates as forfeited for treason. There might be reasons for this omission of an ordinary result of trials for treason. The Douglas ruled a large territory, inhabited by a feudal hierarchy that seems to have, high and low, been strongly attached to their supreme lord. They were not likely to be conciliated by the occurrence in Edinburgh Castle; and the cousin, and virtually the represen-

competition before King Edward, and the record of it in the Great Roll. It gave a distinctness to the larger hereditary interests in Scotland, and in the distinctness which it gave to them so far back as record reaches, showed the futility of attempting to go further. When Comyn traced his descent to the legitimate line of Duncan, and put it into the technical form of feudality, "*quod quidem antecessor suus Dovenaldus filius Duncani filius Crini fuit seisisus de regno Scotiæ*," his story passed unnoticed that the court might look to the serious claims capable of proof by writing and seal.

tative, of the young men, was a man of capacity, courage, and tenacity of purpose, in the vigour of life. A territory of this kind was not to be forfeited to the crown so easily as some meagre barony, the owner of which had got into political trouble and disgrace.

But even as matters went the blow weakened the house of Douglas. The representative of the two young men was their sister, and thus the province of Touraine, being a male fief, reverted to the crown of France.

The Scots domains, too, were divided. Margaret, the sister of the two young men, known in her day as the Fair Maid of Galloway, succeeded to one portion of them, and their granduncle succeeded to another. If we could discover the specialties of tenure which caused this division, they would, on account of what follows, be of no historical moment. The granduncle, who unexpectedly succeeded to the other domains, was old and inactive, and is remembered in the history of that stirring house as James the Fat. He died in 1443. His son William, who succeeded him, was, as we shall presently see, a man of a different order. He presented at once so menacing a front that the two partners who shared the government—Crichton and Livingston—found it unsafe to declare war with him. Livingston had the custody of the king in Stirling Castle, and there one day Douglas appeared to do his humble duty to his sovereign. The request was not to be denied; but in granting it Livingston became partner with Douglas, and Crichton knew that he had to look to himself. Douglas professed to be distinguished by the favour of the young prince, then thirteen years old, and set forth that his Majesty had appointed him Lieutenant-General of the kingdom. It is questioned whether any such appointment went through the proper forms—it would have required, indeed, the co-operation of Crichton, who, as Chancellor, held the seals. But Douglas had the real power, and used it. A Parliament was called, to which Crichton was summoned. The Chancellor, knowing how little favour the house of Douglas owed him, thought it the safer plan to give defiance, so he remained within the Castle of Edinburgh, which he victualled and strengthened.

The Lieutenant-General easily took his family fortress of Crichton, but he held out the Castle of Edinburgh so well that it was deemed prudent to grant him terms.

Douglas meanwhile reunited the dominions of his house by obtaining a divorce from his wife, and marrying, by Papal licence, his cousin, the Fair Maid of Galloway, a child eleven years old. A few years afterwards, in 1449, there was another alliance, more illustrious, but of less historical moment. The young king was married to Mary, the daughter of the Duke of Gueldres. The bride was accompanied by a distinguished body of knights. They were received with as much magnificence as Scotland could afford, but the contrast of that with the wealth and luxury they left behind must have been very noticeable, for the Netherlands were then the richest part of Europe, and looked on Germany, and even France, as poor countries. If they did not find much substantial luxury, the strangers were received with the highest courtesies of chivalry, inasmuch as they were allowed fighting at the lists to their hearts' content. They were honoured, by permission, to pit their chosen champions against a like number of Scotland in one of those tournaments *à outrance*, which were no mere displays of skill, but deadly battles. At these entertainments they had opportunity to mark the power of the Douglas, who, it is said, had a train, or rather army, of five thousand men at his back.

As the young king was growing to manhood the Douglas was concentrating his power, and the elements of a crisis were fermenting. The Douglas had two ways of aggrandising his power by combinations with others, choosing either according to the amount of their rank and influence of the leader he desired to secure. With some heads of great houses he sought an alliance, as if on terms of equality. Thus he entered into a bond with the Earls of Crawford and Ross. The former represented the fallen house of March in its wrongs and enmities, and whatever remnant was left of its estates. The Earl of Ross was almost supreme in the Highlands, as not merely the holder of a peerage, but as the representative of the old Maarmors beyond Loch Ness and the Moray Firth.

The bond was in the usual form, binding the parties to make common cause against all opponents. It does not seem to have included the Livingstons, but they were ranked as allies or dependencies on Douglas. With smaller persons, especially those in his own neighbourhood, Douglas took more direct measures. He summoned them to attend him at the meetings over which he presided—a sort of parliaments—and if they neglected to appear they suffered. Those who thought themselves strong enough to offer resistance to the power of the Douglas, near his own territories, were sometimes brought cruelly to a sense of their folly. The slaughter of two persons of note afforded flagrant instances of the spirit of defiance in which he exercised his power—these were Herries of Terregles and Sandilands of Calder. Crichton, who, though shorn of his great power, was still Lord Chancellor of the kingdom, made a narrow escape from seizure by a party of the Douglasses—and that so close to the centre of authority that he was at the time on his way from Edinburgh to go on shipboard in the Firth of Forth. One of the Douglas outrages was memorable from its dramatic incidents. Douglas had called a great assemblage of his own proper vassals, and of those neighbouring landholders whom he counted as under his banner. One of these, named M'Lellan, and called the Tutor of Bunby, as tutor or guardian to the young laird of that domain, refused to attend the meeting. He was seized and taken to Douglas Castle. His friends had good grounds to fear for his life. His uncle, Sir Patrick Grey, captain of the king's guard, busied himself for the captive's safety, and appeared, provided with warrants under the sign-manual and the proper seals for the Tutor's release. Sir Patrick got a courteous reception from the Douglas. The guest must accept of hospitality in the first place—business would come afterwards. It is believed that the poor Tutor was alive when Sir Patrick arrived, and that Douglas, suspecting the object of the visit, whispered to an attendant to have him despatched. When the hospitalities were ended, Douglas read the warrant. To its full extent he was unfortunately not in a condition to

comply with it. Sir Patrick, however, should have his nephew, though unfortunately he was somewhat changed in condition since his arrival in Douglas Castle—in fact, he was headless. Such was a specimen of the kind of acts of which an account was run up against Douglas at court.

In the midst of his career, it is part of his personal history that he made a pilgrimage or progress to Rome through France. He had, of course, his own object in this. It is not now known; but the affair has its significance from the royal character of his establishment and attendance, and the historical tone in which the event is chronicled. In fact, there are traces, not distinct enough to help to any absolute conclusions, yet generally importing that Douglas kept up busy communication with political persons abroad, and with leaders of parties in England, where the great feud of the Roses was giving opportunities for special combinations and alliances.

The king had now passed his majority, yet was there no attempt to give battle to the Douglas. We know that the Livingstons were ruined, kith and kin. It is hard to say whether this is to be counted the beginning of war, by a skirmish with an outpost of the great enemy, or was a clearing of old scores with the Livingstons themselves, who, in the treatment of the young king and his mother, had given abundant materials for charges of treason. Douglas, at all events, did not take this as an act of war. He continued to bear himself with haughty courtesy towards the king, like an independent sovereign desirous to be at peace with his neighbour.

In the year 1452, just when the winter festivals were finished, the king desired to have a personal conference on matters of state with the Douglas, and invited him to be a guest in Stirling Castle. Like his cousins, he came seemingly without misgiving—a spirit of chivalrous reliance and a contempt of suspiciousness seem to have been part of the proud nature of the house. Of course he had guarantees for safety—some say it was the safe-conduct of the king alone, others that it was backed by the assurances of the noble persons who were to be his fellow-visitors. He arrived on the 13th of January. The party dined and

supped with much cordiality and courtesy. After supper the king took Douglas aside into an inner chamber, where they spoke together. One topic after another was taken up, when the dangerous question of the Bands was opened—probably the one great object for which the meeting was desired. The discussion grew irritating. Douglas would give no sign that he was prepared to desert his allies. The king at last demanded that he should break the Bands. He answered that he would not. "Then this shall," said the king, and he twice stabbed his guest. Sir Patrick Grey, who was at hand, and was no safe neighbour if the Douglas were at disadvantage, came up and felled him with a pole-axe. His body was cast from the chamber-window into the court below.

The conditions by which this crime was accompanied and followed show that it was a mere act of ferocious impulse, and had no place in any settled plan. There was no preparation for dealing with its consequences. The king and his guests indeed had good reason to be alarmed for their safety. The murdered man had four stout brothers, who, with such force as they found at hand, surrounded Stirling Castle. The fortress was unassailable, and they were unable to do more than show defiance and contumely, and this they did in a public and flagrant fashion. It was said that they nailed the safe-conduct to the cross, that all men might read it, and then had it trailed through the miry streets of Stirling tied to the tail of the wretchedest horse that could be found, uttering the while what one chronicler calls "uncouth," and another "slandrous words." They burned and destroyed whatever property in the neighbourhood could be called the king's, and, going a step further, committed much mischief on the burghers of Stirling and other loyal subjects.

It appeared now to have come to the arbitration of the sword whether the house of Douglas or the house of Stewart should rule in Scotland. There was civil war from the border to the Moray Firth. Amidst the general confusion, in which almost every landowner was bound to take a side, we can trace the influence of the social and political peculiarities of the time. In the north the influence of the house of Douglas depended on the league

with the Earl of Ross, who ruled beyond the Moray Firth,—and the Earl of Crawford, whose estates and feudal influence were in Strathmore and other parts of midland Scotland—the land of the Lyndsays.

Between these two another feudal power was, however, consolidating itself. A generation earlier, Alexander Seton had married the heiress of the Gordons, who had considerable estates on the border. The Regent Albany gave them a tract of land called Strathbogie, lying in the barren slopes between the Highlands and the flat eastern districts of the north. There is an expression applied in Scotland to aggrandising landowners that they “birse yont,” or press outwards. The Seton-Gordons “birsed yont,” until in the end they superseded the influence of the earldom of Ross, and the Gordon was called “The Cock of the North.” A great step onwards was taken by the generation at the period we have reached. The laird of Strathbogie and of several other estates was created Earl of Huntly. At this juncture King James made him lieutenant-general of the kingdom, and intrusted to him the royal cause in the north. With great goodwill to such work he undertook to deal with Crawford. The two houses were thoroughly at feud, and the head of each had fallen in a recent contest very characteristic of the times. It was with David, the third Earl of Crawford, that Douglas made his “band.” It appears to have been Kennedy, Bishop of St Andrews—an able politician related to the young king, and much in his confidence—who discovered the band, and discussed it with the other advisers of the crown as a dangerous business. Crawford, taking umbrage at the bishop’s conduct, gathered his followers, and, in the words of a chronicler, set them “to make hereship upon the bishop’s lands, and if they might, to apprehend himself, to keep him quick in prison, within irons, quhill further advertisement.” This charge they fulfilled, and they herried not only the bishop’s lands, but also the “haill lands adjacent thereto, and brought great preys of goods out of Fyfe into Angus.”¹ They did not catch

¹ Pitscottie, 32, 33.

the bishop, however, who remained within his strong castle, whence he attacked the invader with his own spiritual weapon, and "cursed" or excommunicated him, "whilk," as the chronicler says, "the earl highly vilipended as a thing of no strength, with no dread either of God or man." What speedily followed on the cursing, however, impressed upon others that it had "strength." The great Abbey of Arbroath appointed a member of the house of Crawford, as their most powerful neighbour, to be the justiciar or feudal judge over their dominions. The "master" or eldest son held the office. The monks complained that he used too freely the privilege of enjoying their hospitality by quartering on them large bands of his followers, not always of the most orderly or temperate habits, and that he was altogether "uneasy to the convent." Accordingly he was dismissed from office, and a justiciar was chosen from the next in power among the neighbouring families—the Ogilvies. But the master retained possession, and a dispute arose, which drew to a battle near Arbroath. Douglas sent a party of his Clydesdale men to help the Lyndsays, in terms of his bond. It happened at the time that the Earl of Huntly was a guest of a chief of the Ogilvies at Inverquhar, where he had accepted of hospitality on his way to Strathbogie. By the custom of the day he was bound to take up his entertainers' quarrel, and join with such followers as he had in the coming battle.¹ There his son was slain, and he had to flee for his life. The Lyndsays were victors, but at a heavy loss. It is said that the earl came up to stay the conflict, but he got his death-wound from an Ogilvie. It was noticed among men that this came to pass exactly on the first anniversary of the herrying of the bishop's lands. When he was dead "no man durst earth him" till Bishop Kennedy took off the curse.²

¹ It was "ane ancient custom amang the Scottishmen, that where-soever they happen to lodge, they defend their hosts from all hurt, even to the shedding of their blood and losing of their lives for them, if need be, so long as their meat is undigested in their stomachs,"—cited as by Bishop Leslie, *Lives of the Lyndsays*, i. 128.

² *Lives of the Lyndsays*, i. 129-31.

His son and successor, Alexander Lyndsay, who inherited his friendships and quarrels, was called Earl Beardie, and also the Tiger Earl, both for personal characteristics that may easily be divined. It was with him that Huntly had now to deal. They fought an obstinate battle near Brechin. Crawford was deserted by the Laird of Balmoon, who "was captain of the axmen, in whose hands the hail hope of victory stood that day." The Lyndsays were consequently defeated, and the Tiger Earl, as he fled to Finhaven Castle, was heard to say that he would readily abide seven years in hell to have such a victory as Huntly had won that day.¹ He afterwards made personal submission to the king, and was spared his life and part of his estates on a promise of loyalty, which he kept.

Thus the formidable alliance was broken; but James, the brother of the murdered Earl of Douglas, reigned in his stead, and put the king at formal defiance as a perjured man and murderer, by a writing nailed on the door of the Parliament House. With a great army the king marched through his territory, and seized Douglas Castle; yet was it deemed not wise to drive him to extremities. Considerable sacrifices were demanded of him; yet it was observable that these should not be made by parliamentary forfeiture, but by treaty. The document bears date the 24th of August 1452. By it the earl engages to make no claims, by law or otherwise, on the earldom of Wigton and the lands of Stewarton, and engages to abandon all feuds or quarrels that might arise out of bygone events.²

Still the contest was not over. Douglas showed the secret power he possessed by marrying his brother's widow, and again uniting the divided domains which had fallen to different heirs. This was a thing not done in a corner. If a Papal dispensation had been necessary to enable his brother to marry the cousin of both, it was doubly necessary to legitimate a marriage with that bro-

¹ Pitscottie, 106, 107.

² Quoted, Appx. P. F. Tytler's History, vol. iii.

ther's widow; yet the king, for his own reasons, did not oppose the procuring of the dispensation.

This was followed apparently by a knowledge that Douglas was in league with the English Yorkists; and on one ground or other the time had come when it was necessary to court the issue of a battle. A large force was raised—the chroniclers say of forty thousand men, and they give the same as the number collected by Douglas. The royal army besieged and took his Castle of Abercorn in Linlithgowshire—that one of his strongholds which was farthest from his great border territory. Douglas was marching with his army through Lanarkshire to meet the king's forces at Abercorn, and, if possible, save his castle. A battle seemed inevitable; but, either through proffers held out to them or on their own view of the matter, the Hamiltons and several other of his followers would not measure swords with the king, and his army was so diminished that he dared not fight. A new power, too, was raised against him in a rival house of Douglas.

The first Earl of Douglas had for his third wife the Countess of Angus. They had a son who succeeded to this title, while his eldest brother became Earl of Douglas. The house of Angus gradually enlarged its possessions, and at the time of the contest with the elder house they possessed the great stronghold of Tantallon, at the opening of the Firth of Forth. Angus had been at feud with the elder branch of the family, whose followers had recently exasperated him by a plundering raid on his lands. He was appointed leader of the royal army. If it was the tradition of his royal descent that attached any of the followers to the banner of Douglas, Angus partook in the distinction, and he could be supported without a direct contest with the crown. However it was, many of the border houses joined Angus. They met and defeated the army of the adversary at Arkinholm. Two brothers of the Douglas commanded in it: one, who bore the title of Earl of Ormond, was taken and beheaded; the other, the Earl of Moray, fell in the battle. Douglas made a last effort by getting his ally, the Earl of Ross, to invade the west coast; but it merely served to enrich the Highland-

ers with plunder, and the great Douglas had to flee into England.

In the month of August of this year, 1454, an Act of forfeiture was passed against what remained of the house of Douglas—the earl, his mother, and the only brother then alive, Douglas of Balveny. A vast district was thus forfeited to the crown, and more lordships were given away during the ensuing five years than in any similar period. The greater part of the spoil, however, went to Angus, whose race was, as we shall afterwards find, to rebuild the house of Douglas.

Parliament took the opportunity of this great accession of property to the crown to pass an Act for restraining the dispersal of the crown estates by gifts to subjects. Certain lordships and castles were to be inalienably annexed to the crown. These were—Ettrick Forest, the lordship of Galloway, the Castle of Edinburgh, the royal domains in Lothian, Stirling Castle and the royal domain surrounding it, the Castle of Dumbarton, with the lands of Cardross and Roseneath, the earldom of Fife, with the Palace of Falkland, the earldom of Strathearn, the lordship of Brechin, with some others of smaller moment and not readily recognisable by their names.¹ In the scanty legislation of the earlier part of this reign, there is another Act relating to landed property of far more moment, though affecting interests at the very opposite end of the social scale. We have seen that from a very early period the law affected the protection of the humbler class of feudal rights. Subsequent Acts had a similar tendency; but in the Parliament of 1449 it was distinctly enacted, “for the safety and favour of the poor people that labour the ground,” that when they hold leases, these shall remain good although the ownership or lordship of the land should change hands.² While peaceful industry was thus encouraged, the legislative war against vagrancy was renewed in a shape which gives an insight into social peculiarities of the time. The preamble or purpose of one of these Acts is “for the away-putting of sorners, feigned

¹ Act. Parl., ii. 42.

² Ibid., ii. 35.

fools, bards, and suchlike others, runners about." The sorners are described with an alternative as "overlayers" and "masterful beggars." An utter contrast to the modern notions of a beggar comes out in the means by which they are to be identified, which is, by their wandering over the country with horses and hounds: these, with whatever other property they are found to possess, are to be forfeited, and they themselves imprisoned. The other class of persons dealt with in the Act are those "that make them fools that are not"—that is, pretend to be fools; and with these, in a manner that the lovers of romance may feel to be irreverent, are coupled, "bards and suchlike others, runners about." Nothing is said about these having horses and hounds. Still it is supposed possible that they may have some wherewithal. They are to be kept in ward or prison so long as they have any goods of their own to live upon. Failing that, it is provided—with the "excellent brevity" of the Scots Acts, though not with entire clearness of sequence—"that their ears be nayled to the Trone, or any other tree, and cuttet off, and banished the country. And if thereafter they be founden again, that they be hanged." ¹

Scotland stands alone among nations in the way in which her public documents deal with war and diplomacy. Other nations may look out for enemies in any quarter, Scotland knows of but one—"our enemy of England;" so that all legislative provisions regarding war, whether by way of defence or attack, have a singleness of purpose about them—they are directed against England. The precept of the sages, that the years of peace should be occupied in preparing for war, was followed pretty effectively in this reign. The method of arming the feudal force was revised and brought up to the knowledge of the day. The great new arm, artillery, was just beginning to excel the old mechanical contrivances for the casting of missiles, and had to be dealt with. Thus, while every man worth twenty merks is to have a jack with iron sleeves, with sword, buckler, and bow and quiver, or, if

¹ Scots Acts, ii. 36.

he be unskilled in archery, an axe and targe, it is thought needful that the king request the great barons to have each a cart of war, "each cart to have two guns, and each gun two chambers, with the other graith, and a cunning man to shoot them;" "and if they have no craft in the shooting of them, as now they may learn or the time come that will be needful to have them."¹ An organisation was enacted for "bales," or beacon-fires, whenever an English army should threaten the border. The bales, and the force they are to represent, are set forth in a very business-like way. "A bale is warning of their coming, what power that ever they be"—that is, the lighter of the beacon knows nothing more but that an English force is stirring. Two beacons are to indicate that there is an army really coming to the border: "four bales, ilk ane beside other, and all at once, as four candles, shall be suthfast knowledge that they are of great power and means;" and these beacons are to be lighted up from height to height until the warning is seen across the Firth of Forth, so that "all may see them, and come to the defence of the land."² These preparations were for the future. Through renewal of the truces there had been peace with England, in so far that any contests occurring were to be counted as border raids rather than national wars. The Douglas was entertained and pensioned in England; and with the old enemy of his house, the Percy, he made an inroad. He was met and defeated by his rival kinsman, Angus. It was laid to the charge of Douglas that, before the restoration of Henry VI., the old claim of superiority over Scotland was renewed by England; but it was a mere casual affair of words, which scarcely went so far as to make a diplomatic controversy.

In fact, the independence of Scotland was at this time largely helped by quarrels in which the country did not require to take a part. The Wars of the Roses in England were in their most hopeless and disastrous stage. It was a time when an able and ambitious ruler might

¹ Act. Pari., ii. 45.

² Ibid., ii. 44.

have followed up a bold policy for Scotland. The temptation was strong. According to the chroniclers, offers were made not only to restore Berwick and Roxburgh to the Scots crown, but to make over to it the old disputed territories north of the Humber, as the reward of earnest and effective assistance. One chronicler, however, says, with much circumstantiality of detail, that the offer came from the Duke of York, who had an army in the north—while another brings it from King Henry.¹

It was perhaps well for the future of Scotland that her Government did not throw itself at this juncture into either cause. The forces opposed to each other were too great for the intervention of Scotland to rule the issue, and alliance with the losing cause would be disastrous. Meanwhile, the active spirits in England had their hands full; and the annexation of Scotland—a notion never quite abandoned in England—was a project to be at all events postponed.

It is not unnatural, looking to the condition of England, to find an indistinctness in the national policy of Scotland at this time. The tendency was to help the actual sovereign on the throne, Henry VI.; but though his name remains at this period at the head of the chapters in the histories as King of England, his authority was suspended, and a sincere ally could not, in fighting for him, be sure of actually serving his cause. It is said, indeed, that when the King of Scots, as he did, gathered a large army and crossed the border, he was told that he did Henry's cause no good—the people disliked a Scots invasion in itself, and nothing would compensate for the unpopularity of countenancing such a thing. It is certain that a large

¹ Pitscottie (151) makes it part of a tedious speech by a Yorkist ambassador. Bishop Leslie, on the other hand, is equally distinct in telling how King Henry promised "to restore unto the King of Scotland the lands of Northumberland, Cumberland, Durham, and other sheriffdoms, whilk the King of Scotland had of before, and been with-hadden from him divers years, part of which promises were accepted by the King of Scotland, and confirmed by treaties and contracts made, sealed, and interchanged betwixt the twa princes in the year of God 1458."—Leslie's History, 30.

Scots army threatened England, and a large English army threatened Scotland, yet that neither of them made serious war, or left the old marks of an invasion. The Scots, however, had still an object which was independent of parties in England—to clear the English out of Scotland. The enemy still had the great town and fortress of Berwick, and farther within the country they had the Castle of Roxburgh. Here it was resolved to begin, and the king himself conducted the siege.

He received there an unexpected ally in John, the Lord of the Isles, who was in one of the conciliatory and submissive fits which in his dynasty alternated with defiance. After the submission to James I., the lord of that period obtained that coveted earldom of Ross, for which his father fought the battle of Harlaw. We now find the dynasty acting the independent prince again, and granting charters to heads of families in the north. The alliance with Douglas was a great opportunity for them; and we have seen that after the cause was broken on the border, the Lord of the Isles made himself sharply felt on the west coast. He was afterwards desirous of peace, and made offers of submission, which were not accepted, because, as it is said, he did not come in person and seek pardon in abject shape, like his father: the result of that affair—an imprisonment in Tantallon—was not perhaps a precedent to his liking. He got such encouragement, however, as made him believe that it was sound policy to help the king in his project; and so he came to the siege with “ane great army of men, all armed in the Highland fashion, with halbershownes, bows, and axes; and promised to the king, if he pleased to pass any farther into the bounds of England, that he and his company should pass ane large mile before the host, and take upon them the press and dint of the battle.”¹ He was very serviceable in sending out parties to forage in England for the army, or, as it is put, “to spoil and herrie the country”²—an occupation to which the Lowland forces were less accustomed than they used to be.

¹ Pitscottie (who, by the way, calls him Donald). 158. ² Ibid., 159.

The resistance was obstinate, and the siege threatened to be a long one. This is the first memorable occasion—and it became only too memorable—of the use of artillery by Scots troops. There was a passion for making guns of enormous calibre—far too large for the imperfect mechanical science of the day to render them safe to those who handled them. A specimen of such guns may yet be seen in Mons Meg, in Edinburgh Castle, and there are several of them in the Netherlands towns. There was in the siege-train one of these monsters, which had been bought in Flanders by James I., but hardly put to use. The king was curious to see this gun worked—"more curious than became the majesty of ane king."¹ His curiosity cost him his life; and the method in which it did so is distinctly told. The cannon was made, after the practice of the time, of bars of iron, girded into a tube, with iron rings or hoops. These were too large to keep the bars quite close, so that oaken wedges were driven in between the bars and the rings. The expansion caused by the discharge of the gun drove these out, and one of them killed the king, while Angus, who stood beside him, was wounded. So fell James II., on the 3d of August 1460, in the thirtieth year of his age.

¹ Pitscottie, 159.

END OF THE SECOND VOLUME.

DA

760

B894

1873

v.2

Burton, John Hill

The history of Scotland

New ed.

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY
